



FIRST STATE MANUFACTURED HOUSING
A S S O C I A T I O N

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CHAPTER 70

Sub-Chapter I Manufactured Home Owners & Community Owners Act

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TITLE 25
Property
PART VI
Manufactured Home Communities

CHAPTER 70. MANUFACTURED HOMES AND MANUFACTURED HOME COMMUNITIES

Subchapter I. Manufactured Home Owners and Community Owners Act

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§7001. Purposes and policies; enforceability.

(a) This subchapter must be liberally construed and applied to promote its underlying purposes and policies, which are:

(1) to clarify and establish the law governing the rental of lots for manufactured homes as well as the rights and obligations of manufactured home community owners (landlords), manufactured home owners (tenants), and residents of manufactured home communities; and

(2) to encourage manufactured home community owners and manufactured home owners and residents to maintain and improve the quality of life in manufactured home communities.

(b) This subchapter applies to all rental agreements for manufactured home lots and regulates and determines the legal rights, remedies, and obligations of all parties to a rental agreement, wherever executed, for a lot for a manufactured home in a manufactured home community within this State. A provision of a rental agreement which conflicts with a provision of this subchapter and is not expressly authorized herein is unenforceable. The unenforceability of a provision does not affect the enforceability of other provisions of a rental agreement which can be given effect without the unenforceable provision.

§ 7001A. The Delaware Manufactured Housing Alternative Dispute Resolution Act.

(a) The purpose of the Delaware Manufactured Housing Alternative Dispute Resolution (ADR) Act is to provide a means to resolve disputes without litigation by using alternative dispute resolution techniques. The act requires the use of alternative dispute resolution by the parties if the Governor's Advisory Council on Manufactured Housing, by the affirmative vote of a majority of its members, determines that an existing dispute or perceived grievance between a manufactured home community owner and a tenant or a group of tenants should be referred to ADR. A broad interpretation of the provisions of this section should achieve these purposes.

(b) As used in this section, unless the context otherwise requires:

(1) "ADR" means the alternative dispute resolution method provided for by this section, unless the parties to a dispute adopt by written agreement some other method of ADR, in which event "ADR" refers to the method they adopt. The "ADR" method provided for by this section is mandatory, but nonbinding mediation.

(2) "ADR specialist" means an individual who has the qualifications described in subsection (g) of this section to conduct an ADR proceeding.

(3) "Advisory Council" means the Governor's Advisory Council on Manufactured Housing.

(4) A "dispute subject to ADR" means a dispute that is not the basis for a pending action for summary possession in accordance with § 5702 of this title.

(5) "Mediation" is an option by which an ADR specialist facilitates the parties in reaching a mutually acceptable resolution of a dispute. It includes all contacts between the ADR specialist and any party or parties until a resolution is agreed to, the parties discharge the ADR specialist, or the ADR specialist finds that the parties cannot agree.

(6) "Person" means any individual, corporation, association, partnership, statutory trust, business trust, limited liability company, or any other legal, commercial, or governmental entity, whether or not organized for profit.

(c) A person who files a certificate of agreement provided for in subsection (d) of this section agrees to submit all disputes subject to ADR to an ADR specialist. Upon the filing of a certificate of agreement, the filer is bound by the provisions of this section.

(d)(1) A certificate of agreement to submit a dispute to ADR must set forth:

- a. The name of the person filing the certificate;
- b. The address of the person filing the certificate, including the street, number, city, state, and zip code, which will be used to give any required notice in a dispute;
- c. The name of the person or persons or entity subject to the dispute; and
- d. The nature and substance of the dispute in sufficient detail to permit understanding of the circumstances and issues involved in the dispute.

(2) A provision in a certificate of agreement that purports to limit a dispute that is subject to ADR, other than an action for summary possession, is void.

(e)(1) A certificate of agreement accepting ADR must be filed with the Chair of the Advisory Council, or the Chair's designee.

(2) The Chair shall keep records as are required to determine who has filed a certificate of agreement accepting ADR or when such a certificate has been revoked, together with the date of any such filing or revocation.

(3) The Chair shall keep appropriate records regarding all disputes which have been referred to ADR by the action of the members of the Advisory Council.

(4) A certificate of agreement accepting ADR or revoking ADR must be accompanied by a payment of \$30 to the Governor's Advisory Council. The payment amount may be changed by a two-thirds affirmative vote of the members of the Advisory Council. The payment will be refunded if the Advisory Council does not submit the dispute to ADR.

(f)(1) If the Advisory Council determines that an existing dispute or perceived grievance between a manufactured home community owner and a tenant or a group of tenants should be referred to ADR, ADR is mandatory, but nonbinding. A manufactured home community owner or a tenant or a group of tenants who are the respondents in a dispute for which a certificate of agreement has been filed with the Advisory Council, shall submit to the ADR.

(2) An affirmative vote by a majority of the members of the Advisory Council is sufficient to submit a dispute between a manufactured housing community owner and a tenant or a group of tenants to ADR.

(g) ADR proceedings must be conducted by a person who meets the following criteria:

(1) The person has successfully completed at least 25 hours of training in resolving civil disputes in a course or program approved by the Delaware State Bar Association, or

(2) The person is registered as an active member of the Delaware Bar, together with a minimum of 5 years of experience as a practicing attorney; and

(3) The person agrees to conduct ADR proceedings without compensation.

(h) The ADR mediation conference. -- A mediation conference must be scheduled in consultation with the parties within 30 days of the date of the determination by the Advisory Council that the dispute shall be referred to ADR, and must be held by the selected ADR specialist within ninety days after scheduling. All parties must participate in the mediation conference. The ADR specialist may immediately terminate the ADR conference and recommend that the Advisory Council refer the dispute to the Attorney General's office for further investigation, for failure to participate in the mediation conference. All persons necessary for the resolution of the case must be present at the mediation conference.

(1) Before a mediation conference begins, the ADR specialist shall provide the parties with a written statement setting forth the procedure to be followed. The parties are each required to serve upon the ADR specialist a Confidential Mediation Conference Statement 10 days prior to the scheduled mediation conference.

(2) Prior to the commencement of the mediation conference, the parties and the ADR specialist shall sign a written agreement which must include explanation of the following:

- a. The rights and obligations of parties to the mediation conference; and
- b. The confidentiality of the mediation conference.

(3) All memoranda, documents, work products, and other materials contained in the case files of an ADR specialist or a court related to the mediation are confidential. Any communication made in, or in connection with, the mediation which relates to the dispute being mediated, whether made to the ADR specialist or a party or to any person, if made at a mediation conference, is confidential. The certificate of agreement is confidential unless the parties otherwise agree in writing. Confidential materials and communications are not subject to disclosure in any judicial or administrative proceeding except:

- a. If all parties to the mediation agree in writing to waive confidentiality;
- b. In an action between an ADR specialist and a party to the mediation for damages arising out of the mediation; or
- c. Statements, documents, memoranda, materials, and other tangible evidence, otherwise subject to discovery, which were not prepared specifically for use in, and were not used in, the mediation conference.

(4) The ADR specialist shall assist the parties to reach a mutually acceptable resolution of their dispute through discussion and negotiation. The ADR specialist may terminate the mediation conference if the parties are unable to reach agreement. Such a termination is without prejudice to either party in any other proceeding. The ADR specialist may not impose any adjudication, sanction, or penalty upon the parties based solely on their failure to reach an agreement; however, the ADR specialist may impose sanctions upon a party who fails to appear for a mediation conference or fails to negotiate in good faith. A party is not bound by anything said or done at the mediation conference, except by a settlement agreement, if a settlement is reached.

(5) If the parties involved in a mediation conference reach a settlement, the agreement must be reduced to writing by the ADR specialist, unless the parties otherwise agree as part of their settlement that they will prepare the writing. The written agreement must be signed by the parties and the ADR specialist. The ADR specialist shall encourage unrepresented parties to the mediation to consult with counsel prior to executing a mediation agreement. The ADR specialist shall provide all parties with a list of agencies that may be able to assist an unrepresented party, such as the Consumer Protection Unit of the Attorney General's Office; Delaware Volunteer Legal Services, Inc. (DVLS); Community Legal Aid Society, Inc. (CLASI); and Legal Services Corporation of Delaware, Inc. (LSCD). A settlement agreement must set forth the settlement of the disputed issues and the future responsibilities of each party to the agreement. The agreement is binding on all parties to the agreement.

(6) If the parties involved in a mediation conference do not reach a settlement, the ADR specialist shall file with the Advisory Council a notice and serve a copy to each of the parties, advising that mediation was not successful.

(i)(1) With the exception of subsection (l) (statute of limitations) of this section, the ADR procedures provided for in this section cease to have any force or effect upon the commencement of litigation concerning the dispute that is the subject of the ADR proceedings. The parties to such litigation are exclusively subject to the rules of the tribunal in which the litigation has been commenced and nothing in this section shall be construed to infringe upon or otherwise affect the jurisdiction of the courts over such disputes.

(2) The Council may make a recommendation to the Office of the Attorney General for further action if the ADR process is unsuccessful. The Office of the Attorney General shall report back to the Advisory Council within 60 days as to the action taken or to be taken with respect to the dispute.

(j) The results of the ADR proceedings must be reported to the Advisory Council. Memoranda and documents submitted to an ADR specialist, statements made during the ADR, and notes or other materials made by the ADR specialist or any party in connection with the ADR are not subject to discovery, may not be introduced into evidence in any proceeding, and may not be construed to be a waiver of any otherwise applicable privilege; however, nothing in this section limits the discovery or use as evidence of documents and other materials that would have otherwise been discoverable or admissible as evidence but for the use of those documents or materials in the ADR proceeding.

(k) An ADR specialist has the same immunity that the ADR specialist would have if that ADR specialist were a judge acting in a court with jurisdiction over the subject matter and over the parties involved in the dispute that led to ADR.

(l) The initiation of ADR under this section suspends the running of the statute of limitations applicable to the dispute that is the subject of the ADR until 14 days after the ADR specialist files notice that mediation was not successful, pursuant to paragraph (h)(6) of this section. (75 Del. Laws, c. 382, § 1; 70 Del. Laws, c. 186, § 1.)

§7002. Jurisdiction.

(a) Any person, whether or not a citizen or resident of this State, who owns, holds an ownership or beneficial interest in, uses, manages, or possesses real estate situated in this State submits to the jurisdiction of the courts of this State as to any action or proceeding for the enforcement of an obligation or right arising under this subchapter.

(b) A summary proceeding to recover the possession of a rented lot, pursuant to Chapter 57 of this title, may be maintained in the Justice of the Peace Court in the county where the property is located.

(c) In the absence of a provision in this subchapter governing the relationship between a manufactured home owner (tenant) and a manufactured home community owner (landlord), the Residential Landlord-Tenant Code set forth in Part III of this title governs the relationship. The Residential Landlord-Tenant Code also governs the rental of manufactured homes. In the event of conflict between the provisions of this subchapter and those of the Residential Landlord-Tenant Code, this subchapter governs issues pertaining to the rental of lots in manufactured home communities.

§7003. Definitions.

Unless otherwise expressly stated, if a word or term is not defined under this section, it has its ordinarily accepted meaning or means what the context implies. In this subchapter, the following definitions apply.

(a) 'Agreement' means a written rental agreement.

(b) 'Authority' means the Delaware Manufactured Home Relocation Authority.

(c) 'Common area' means shared land or facilities within a manufactured home community over which the landlord retains control.

(d) 'Community owner' or 'landlord' means the owner of two or more manufactured home lots offered for rent. It includes a lessor, sub-lessor, park owner, or receiver of two or more manufactured home lots offered for rent, as well as any person, other than a lender not in possession, who directly or indirectly receives rents for two or more manufactured home lots offered for rent and who has no obligation to deliver such rents to another person.

(e) 'Guest' or 'visitor' means a person who is not a tenant or resident of a manufactured home community and who is on the premises of the manufactured home community with the express or implied permission of a tenant or resident of the community.

(f) 'Hold over' means to retain possession of a rented lot in a manufactured home community after the termination, non-renewal, or expiration of a rental agreement governing the rented lot.

(g) 'Holdover' means an act of retaining or a tenant who retains possession of a rented lot in a manufactured home community after the termination, non-renewal, or expiration of a rental agreement governing the rented lot.

(h) 'Home owner' or 'tenant' means an owner of a manufactured home who has a tenancy of a lot in a manufactured home community; a lessee.

(i) 'Landlord' or 'community owner' means the owner of two or more manufactured home lots offered for rent. It includes a lessor, sub-lessor, park owner, or receiver of two or more manufactured home lots offered for rent, as well as any person, other than a lender not in possession, who directly or indirectly receives rents for two or more manufactured home lots offered for rent and who has no obligation to deliver such rents to another person.

(j) 'Lease' or 'rental agreement' means a written contract between a landlord and a tenant establishing the terms and conditions whereby a manufactured home is placed upon or is allowed to remain upon a rented or leased lot in a manufactured home community.

(k) 'Manufactured home' means a factory-built, single-family dwelling: (1) transportable in one or more sections, which is either (8) body feet or more in width and forty (40) body feet or more in length, or, when erected on site, has more than four hundred (400) square feet in living area; and (2) with or without a permanent foundation and designed to be used as a year-round dwelling when connected to the required utilities; and (3), if manufactured since June 15, 1976, built in accordance with manufactured home construction requirements promulgated by the federal Department of Housing and Urban Development (HUD) or by other applicable codes. 'Manufactured home' is synonymous with 'mobile home', 'trailer', and similar terms used elsewhere in this title.

(l) 'Manufactured home community' means a parcel of land where two or more lots are rented or offered for rent for the placement of manufactured homes. Manufactured home community is synonymous with 'mobile home park', 'trailer park', and 'trailer court'.

(m) 'Notice' means a written announcement, warning, or other communication delivered to or served upon a person, as designated in statute.

(n) 'Premises' means the rented lots in a manufactured home community, the structures upon them, and the facilities and appurtenances thereon, as well as the grounds, common areas, and facilities held out for the use of the tenants and/or residents generally or whose use is contracted for between landlord and tenant.

(o) 'Quiet enjoyment' includes the peaceful possession of the premises in a manufactured home community without unwarranted disturbance.

(p) 'Recreational vehicle' means a travel trailer, camping trailer, park trailer, camper, camper motor home, or similar accommodation which is primarily designed as temporary living quarters for recreational camping or for seasonal or travel use and which either has its own motor power or is mounted on or drawn by another vehicle.

(q) 'Rent' means money paid by a tenant to a landlord for the possession, use, and enjoyment of a rented lot and other parts of the premises in a manufactured home community pursuant to a rental agreement. For purposes of summary possession, rent includes late fees for rent, other fees and charges, including utility charges, and the tenant's share of the Delaware Manufactured Home Relocation Trust Fund assessment.

(r) 'Rental agreement' or 'lease' means a written contract between a landlord and a tenant establishing the terms and conditions whereby a manufactured home is placed upon or is allowed to remain upon a rented or leased lot in a manufactured home community.

(s) 'Resident' means a person who resides in a manufactured home located in a manufactured home community. A resident may or may not be a tenant.

(t) 'Seasonal property' means a parcel of land operated as a vacation resort on which two or more lots are rented or offered for rent for the placement of manufactured homes or other dwellings used less than 8 months of the year. A seasonal property is characterized by a lack of availability of year-round utilities and by the fact that its tenants have primary residences elsewhere.

(u) 'Tenant' or 'home owner' means an owner of a manufactured home who has a tenancy of a lot in a manufactured home community; a lessee.

(v) 'Trust Fund' means the Delaware Manufactured Home Relocation Trust Fund.

(w) 'Utility charge' means a charge by a landlord or others to a tenant for a commodity such as water, sewer, electricity, fuel, propane, cable television, or trash.

(x) 'Utility service' means a service provided by a landlord or others to a tenant for a commodity such as water, sewer, electricity, fuel, propane, cable television, or trash.

§7004. Exemptions.

(a) The rental of ground upon which a recreational vehicle is placed, including any facilities or utilities thereon, is exempt from the requirements of this subchapter, and nothing in this subchapter may be construed as determining, regulating, or governing the legal rights of parties to any lease or rental agreement for the ground on which a recreational vehicle is situated.

(b) The rental of ground within the category of seasonal property is exempt from the requirements of this subchapter, and nothing in this subchapter may be construed as determining, regulating, or governing the legal rights of parties to any lease or rental agreement for the rental of ground within the category of seasonal property.

§7005. Requisites for rental of a manufactured home lot.

A landlord may not rent a lot in a manufactured home community without first delivering a copy of the rental agreement, a copy of the rules, standards, and fee schedule of the manufactured home community, and a copy of this subchapter to the prospective tenant who shall acknowledge such delivery by signing a receipt.

§ 7006. Provisions of a rental agreement.

(a) All new and renewing rental agreements, including those rental agreements whose original term has expired, for a lot in a manufactured home community must contain:

(1) Specific identification and location of the rented lot within the manufactured home community;

- (2) A stipulation of the total amount of annual rent for the lot;
- (3) A stipulation of the term of the rental agreement and the terms of payment of rent, whether monthly, quarterly, semiannually or annually;
- (4) The amount of rent due for each term of payment and the date on which each payment of rent is due;
- (5) The amount of any late-payment fee for rent and the conditions under which the fee may be imposed;
- (6) A listing of each other fee or charge in a manner that identifies the service to be provided for the fee or charge in accordance with the provisions of § 7008 of this title;
- (7) The name and address of the landlord or the person authorized to receive notices and accept service on the landlord's behalf;
- (8) The name and location of the federally insured financial institution where the landlord's security-deposits account is located;
- (9) A services rider which contains a description of each utility, facility and service provided by the landlord and available to the tenant, clearly indicating the financial responsibility of the tenant and the landlord for installation and maintenance, and for the related fees or charges that may be imposed upon the tenant by the landlord;
- (10) A rental agreement summary which must contain a brief description of the manufactured home, the rented lot, rental amount, term, landlord's mailing address, tenant's mailing address, fees, security deposit, information regarding rent adjustment, community status and method of notice; in addition, the summary must include the amount of rent charged for the lot for the 3 most recent past years. If the amounts are unknown after a diligent search or if the lot was not rented, a statement to that effect must be included. The rent history provided pursuant to this paragraph may not be used as a predictor of future rent increases, nor may it be used against the community owner/landlord in any way;
- (11) The grounds for termination, as described in this subchapter;
- (12) A specific reference to this subchapter as the law governing the relationship between the landlord and the tenant regarding the lot rental;
- (13) Provisions requiring the landlord to:

a. Maintain and re-grade the lot area where necessary and in good faith to prevent the accumulation of stagnant water thereon and to prevent the detrimental effects of moving water;

b. Maintain the manufactured home community in such a manner as will protect the health and safety of residents, visitors and guests;

c. Identify each lot area in the community in such a way that each tenant can readily identify that tenant's own area of responsibility and specify the duties of the tenant in maintaining the tenant's own area of responsibility;

d. Maintain the community, including common areas and rental lots not under rent, keeping it free of species of weeds or plant growth which are noxious or detrimental to the health of the residents;

e. Make a good faith effort to exterminate insects, rodents, vermin or other pests which are dangerous to the health of the residents when an infestation exists in the common areas of the community;

f. Maintain all water, electrical, plumbing, gas, sewer, septic and other utilities and services provided by the landlord in good working order, repairing these utilities and services within the earlier of 48 hours after written notification of a utility or service problem, or as soon thereafter as is practicable if a repair within 48 hours is not practicable;

g. When applicable, specify whether septic systems are to be maintained by the landlord or by the tenant;

h. Respect the privacy of residents and agree not to enter into, under or on the manufactured home without the permission of the tenant or an adult resident unless emergency circumstances exist and entry is required to prevent injury to person or damage to property. However, the landlord may, with 72 hours' notice, inspect any utility connections owned by the landlord or for which the landlord is responsible;

i. Maintain all roads within the community in good condition;

j. Comply with all federal, State and local building codes;

k. Allow the tenant freedom of choice in the purchase of goods and services other than utilities and related services subject to the limitations in subdivision (b)(13) of this section;

(14) Provisions requiring the tenant to:

a. Keep the exterior of the manufactured home and the rented lot in a clean and sanitary condition;

b. Refrain from storing outside on the lot occupied by the tenant's manufactured home building materials, furniture or similar items usually not stored outside a home by a property owner in a residential area;

c. Dispose of all rubbish, garbage and other waste materials in a clean and sanitary manner;

d. Abide by all reasonable written rules concerning use, occupation and maintenance of the premises, and amendments thereto, as provided for in § 7019 of this title;

e. Abide by all reasonable written manufactured home standards, and amendments thereto, as provided for in § 7020 of this title.

(b) A rental agreement for a lot in a manufactured home community may not contain:

(1) A provision whereby the tenant authorizes a person to confess judgment on a claim arising out of the rental agreement;

(2) A provision whereby the tenant agrees to waive or to forego any right or remedy provided by law;

(3) A provision whereby the tenant waives the right to a jury trial;

(4) A provision which permits the landlord to take possession of the rented lot or the tenant's personal property without the benefit of formal legal process;

(5) A provision which permits the landlord to collect a fee for late payment of rent without allowing the tenant to remit the rent in full a minimum of 5 days beyond the date the rent is due;

(6) A provision which permits the landlord to impose for late payment of rent, based on a monthly payment, a fee in excess of the greater of \$25.00 or 5% of the rental payment specified in the rental agreement;

(7) A provision which permits the landlord to charge an amount in excess of 1 month's rent for a security deposit, unless mutually agreed to, or to retain the security deposit upon termination of the rental agreement even though

the tenant has paid the rent and any fees or charges in full as of the date of termination and has caused no damage to the landlord's property;

(8) A provision which permits the landlord to collect a deposit in excess of 1 normal billing period for any governmental mandated charge which is the responsibility of the tenant and would ultimately become the responsibility of the landlord if not paid by the tenant, or to retain the deposit upon termination of the lease if the tenant has paid the mandated charge;

(9) A provision which prohibits the tenant from terminating the rental agreement upon a minimum of 30 days notice when a change in the location of the tenant's current employment causes the tenant to commute 30 miles farther from the manufactured home community than the tenant's current commuting distance from the community, or a provision which prohibits a tenant who is a member of the armed forces of the United States from terminating a rental agreement with less than 30 days notice to the landlord if the tenant receives reassignment orders which do not allow at least 30 days notice;

(10) A provision for a waiver of any cause of action against, or indemnification for the benefit of, the landlord by the tenant for any injury or harm caused to the tenant or to residents, guests or visitors or to the property of the tenant, residents, guests or visitors resulting from any negligence of the landlord or of a person acting for the landlord in the performance of the landlord's obligations under the rental agreement;

(11) A provision which denies to the tenant the right to treat a continuing, substantial violation by the landlord of any agreement or duty protecting the health, welfare or safety of the tenant or residents as a constructive or actual eviction which would otherwise permit the tenant to terminate the rental agreement and to immediately cease payments thereunder; provided, that the landlord fails to correct the condition giving rise to the violation or fails to cease the violation within a reasonable time after written notice is given to the landlord by the tenant;

(12) A provision which prohibits displaying a for-sale sign that advertises the sale of a manufactured home in a manufactured home community; however, the landlord may establish reasonable limitations as to the number of signs and the size and placement of signs;

(13) A provision which unreasonably limits freedom of choice in the tenant's purchase of goods and services, provided however, that:

a. The landlord is not required to allow service vehicles to have access to the manufactured home community in such numbers or with such frequency that a danger is created or that damage beyond ordinary wear and tear is likely to occur to the infrastructure of the community;

and b. The landlord may restrict trash collection to a single provider;

c. The landlord may select shared utilities;

(14) A provision which permits the recovery of attorney's fees by either party in a suit, action or proceeding arising from the tenancy;

(15) A provision which violates any federal, state or local law;

(16) A provision which requires the tenant to:

a. Sell or transfer a manufactured home to the landlord; or

b. Buy a manufactured home from the landlord; or

c. Sell a manufactured home through the services of the landlord;

(17) A provision which requires the tenant to provide the landlord with a key to the tenant's manufactured home or any appurtenances thereto;

(18) A provision which regulates the use of satellite dishes or television antennas that conflicts with federal law or FCC regulations;

(19) A provision which requires the tenant to accept automatic deduction of rent payments from the tenant's checking or other account;

(20) A provision which grants the landlord an option or right of first refusal to purchase the tenant's manufactured home; and

(21) A provision which limits to a liquidated sum the recovery to which the tenant otherwise would be entitled in an action to recover damages for a breach by the landlord in the performance of the landlord's obligations under the rental agreement.

(c) If a court of competent jurisdiction finds that a tenant's rental agreement contains a provision in violation of subsection (b) of this section:

(1) The landlord shall remove the provision and provide all affected tenants by regular first-class mail with proof of mailing or by certified mail, return receipt requested, at the address of the tenants' rented lots, with either an amended rental agreement or corrective addendum to the rental agreement within 30 days of the exhaustion of all appeals, if any are taken; and

(2) The landlord is liable to the tenant for actual damages suffered by the tenant as a result of the violation, plus court costs, if any.

(d) If a court of competent jurisdiction finds that a landlord has wilfully included in the rental agreement a provision in violation of subsection (b) of this section, the tenant is entitled to recover 3 months' rent in addition to an award under subsection (c) of this section.

(e) A rental agreement must be executed before a tenant occupies a lot.

(f) A landlord may not offer a lot for rent in a manufactured home community unless the lot conforms to the applicable state, county or municipal statutes, ordinances or regulations under which the manufactured home community was created, or under which the manufactured home community currently and lawfully exists.

(g) A violation of subsection (f) of this section is punishable by a fine of not more than \$1,000.

(h) If a court of competent jurisdiction finds that a tenant's rental agreement fails to contain a provision required by subsection (a) of this section:

(1) The landlord shall include the provision and provide all affected tenants by regular first class mail with proof of mailing or by certified mail, return receipt requested, at the address of the tenants' rented lots, with either an amended rental agreement or corrective addendum to the rental agreement within 30 days of the exhaustion of all appeals, if any are taken; and

(2) The landlord is liable to the tenant for actual damages suffered by the tenant as a result of the violation, plus court costs, if any.

(i) If a court of competent jurisdiction finds that a landlord has wilfully failed to include in the rental agreement a provision required by subsection (a) of this section, the tenant is entitled to recover 3 months' rent in addition to an award under subsection (h) of this section.

(j) Both the landlord and tenant shall comply with the provisions of the rental agreement. The remedies available to a landlord or a tenant set forth in this chapter are in addition to those remedies available to a landlord or a tenant in a court of competent jurisdiction for the failure by the landlord or the tenant to comply with any provision of a rental agreement. (25 Del. C. 1953, §§ 7004, 7006; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 66 Del. Laws, c. 268, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 35, § 2; 75 Del. Laws, c. 375, § 1; 75 Del. Laws, c. 382, §§ 3-5.)

§7007. Term of rental agreement; renewal of rental agreement.

(a) The term of a rental agreement for a lot in a manufactured home community must be:

(1) one year; or

(2) a shorter or longer term that is mutually agreed upon by the parties and is designated in writing within the rental agreement.

(b) Upon the expiration of the term of a rental agreement, the rental agreement must be automatically renewed by the landlord for the same term and with the same provisions as the original agreement, with the exception that modified provisions relating to the amount and payment of rent are permitted, and, with the mutual agreement of all parties to the rental agreement, other modifications not prohibited by law, unless:

(1) the tenant notifies the landlord in writing, a minimum of 60 days prior to the expiration of the rental agreement, that the tenant does not intend to renew it, or a shorter or longer period of time as is mutually agreed upon by the parties; or

(2) the landlord notifies the tenant in writing, a minimum of 60 days prior to the expiration of the rental agreement, that the agreement will not be renewed for due cause, as described in §7010(a) of this subchapter.

§7008. Fees; services; utility rates.

(a) A 'fee' or 'charge' is a monetary obligation, other than lot rent, designated in a fee schedule pursuant to subsection (b) of this section and assessed by a landlord to a tenant for a service furnished to the tenant, or for an expense incurred as a direct result of the tenant's use of the premises or of the tenant's acts or omissions. A fee or charge may be considered as rent for purposes of termination of a rental agreement, summary possession proceedings, or for other purposes if specified in this title.

(b) A landlord must clearly disclose all fees in a fee schedule attached to each rental agreement.

(c) A landlord may assess a fee if the fee relates to a service furnished to a tenant or to an expense incurred as a direct result of the tenant's use of the premises. However, a fee that is assessed due to the tenant's failure to perform a duty arising under the rental agreement may be assessed only after the landlord notifies the tenant of the failure and allows the tenant 5 days after notification to remedy or correct the failure to perform. A tenant's failure to pay the fee within .5 days of notification is a basis for termination of the rental agreement pursuant to §7010A of this subchapter.

(d) A prospective tenant in a manufactured home community may be required to pay an application fee to be used by the landlord to determine the prospective tenant's credit worthiness. A landlord may not charge an application fee that exceeds the greater of 10% of the monthly lot rent or \$50. A landlord shall, upon receipt of any money paid as an application fee, furnish a receipt to the prospective tenant for the full amount paid by the prospective tenant, and shall maintain for a period of at least 2 years complete records of all application fees charged and the amount received for each fee. If a landlord unlawfully demands or charges more than the allowable application fee, the prospective tenant is entitled to damages equal to double the amount demanded or charged as an application fee by the landlord.

(e) If a landlord pays a tenant's utility charge to a third party due to the tenant's failure to do so, the charge is considered a pass-through utility charge. In

addition to any late charge paid by the landlord to the third party, the landlord may assess a third-party-payment fee not to exceed the greater of 5% of the total payment by the landlord to the third party or \$25.00.

(f) A landlord may assess a late-payment fee for the late payment of rent if:

(1) the rent is not paid within five days after the due date specified in the rental agreement; and

(2) the rental agreement provides for a late-payment fee.

(g) A landlord may assess an optional-user fee for the use of designated facilities or services. Failure of a tenant to pay an optional-user fee for requested use of a facility or service may not be the basis for termination of the rental agreement. However, continued use of the requested facility or service without paying the optional-user fee may result in termination of the rental agreement pursuant to §7010A of this subchapter. Optional-user fees include, but are not limited to, fees for the use of a swimming pool, marine facilities, and tennis courts.

(h) The amount of an optional-user fee must be reasonably related to the cost of providing the facility or service upon which the fee is based.

(i) A fee may not be increased more than once during any twelve-month period. A utility rate may be adjusted as provided in subsection (j) of this section. A landlord shall notify a tenant in writing of any fee increase or additional fee at least 60 days prior to the effective date of the increase or addition. A fee increase or an additional fee is unenforceable unless proper written notice has been given to the tenant.

(j) A landlord may charge a tenant for utilities provided by the landlord to the tenant if specified in the rental agreement. The rate charged by a landlord for a utility may not exceed the utility's retail consumer rate, and the rate charged by the landlord may be adjusted without notice on a monthly basis.

(k) A landlord may not assess an entrance or exit fee. An entrance fee is any fee assessed by a landlord to a tenant prior to the tenant's occupancy of a rented lot, except for an application fee or a security deposit, or for those fees or charges for utilities, for direct services actually rendered, or for the use of facilities, all of which must be identified and described in the rental agreement or in a separate notice pursuant to §7006 of this title. An exit fee is a fee assessed by a landlord to a tenant immediately prior to or after the tenant's final departure from the rented lot, except for those fees or charges for direct services actually rendered by the landlord which would not otherwise be provided without charge in the normal course of business.

(l) If a utility, facility, or service previously provided pursuant to the rental agreement is discontinued, the landlord shall adjust the tenant's rent, charge, or fee payment by deducting the landlord's direct operating costs of providing the discontinued utility, facility, or service. An adjustment is determined as follows:

(1) No less than 60 days prior to the discontinuance of the utility, facility, or service, the landlord shall notify all affected tenants of the discontinuance, and include in the notification an explanation of the discontinuance and the reduction in the direct operating cost, if any, associated with the discontinuance.

(2) Within 10 days after the landlord's notice pursuant to paragraph (1) of this subsection, the tenants may form a committee not to exceed five members. The committee and the landlord shall meet together at a mutually convenient time and place to discuss the discontinuance of the utility, facility, or service.

(3) At the meeting, the landlord shall disclose and explain all material factors for the proposed discontinuation of the utility, facility, or service, together with supporting documentation. The reduction in the direct operating cost of the utility, facility, or service, as determined by an independent public accountant or certified public accountant paid for by the landlord, is binding upon both the landlord and the tenants.

§7009. Termination of rental agreement by tenant during first month of occupancy; during first 18 months of occupancy.

(a) If a landlord fails to substantially comply with the provisions of a rental agreement, or if there is a material non-compliance with this subchapter or any statute, ordinance, or regulation governing the landlord's maintenance or operation of the manufactured home community, a tenant may, upon written notice to the landlord, terminate the rental agreement and vacate the rented lot by removing his or her manufactured home and all personal possessions at any time during the first month of occupancy. The tenant has no further obligation to pay rent after the date of vacating the lot. A tenant retains the right to terminate a rental agreement beyond the first month of occupancy if the tenant remains in possession of the lot in reliance on the written promise by the landlord to correct the condition or conditions which would justify termination of the agreement by the tenant during the first month of occupancy.

(b) If a condition exists which deprives a tenant of a substantial part of the benefit and enjoyment of the bargain pursuant to the rental agreement, the tenant may notify the landlord in writing of the condition, and, if the landlord does not remedy the condition within 15 days from the date of mailing, the tenant may terminate the rental agreement and vacate the rented lot by removing his or her manufactured home and all personal possessions. The tenant has no further obligation to pay rent after the date of vacating the lot. Notice pursuant to this subsection need not be given if the condition renders the premises uninhabitable or poses an imminent threat to the health, safety, or welfare of the tenant or a resident of the tenant's manufactured home.

(c) A tenant may not terminate a rental agreement pursuant to this section for a condition caused by lack of due care by the tenant, a resident of the tenant's manufactured home, or any other person on the premises with the tenant's or resident's consent.

(d) If a condition referred to in subsection (a) or (b) of this section was caused by the landlord, the tenant may recover any damages sustained as a result of the condition, including, but not limited to, reasonable expenditures necessary to obtain adequate substitute housing while the manufactured home is uninhabitable or while an imminent threat to health, safety, or welfare exists, or while the tenant is deprived of a substantial part of the benefit and enjoyment of the bargain pursuant to the rental agreement prior to the termination of the rental agreement by the tenant, and for a reasonable length of time following the termination of the rental agreement.

(e) If a landlord or the landlord's authorized representative intentionally misrepresents a material fact regarding a manufactured home community, the scope or extent of services provided by the landlord, or a provision of a rental agreement in a brochure, newspaper, radio or television advertisement, or other document or advertisement, for the purpose of inducing a tenant to enter into a rental agreement, and the tenant reasonably relies upon the misrepresentation to the tenant's detriment when

entering into the rental agreement, the tenant has the right to terminate the rental agreement within 18 months of execution of the rental agreement.

§7010. Termination or nonrenewal of rental agreement by landlord; due cause: change in land use.

(a) A landlord may terminate a rental agreement for a lot in a manufactured home community before it expires or may refuse to renew an agreement only for due cause. Due cause means:

- (1) an intended change in the use of the land of a manufactured home community as specified in subsection (b) of this section; or
- (2) the grounds for termination pursuant to §7010A of this subchapter.

(b) If a change is intended in good faith in the use of land on which a manufactured home community or a portion of a manufactured home community is located and the landlord intends to terminate or not renew a rental agreement, the landlord shall:

(1) provide all tenants affected with at least a one-year termination or non-renewal notice, which informs the tenants of the intended change of use and of their need to secure another location for their manufactured homes. The landlord may not increase the lot rental amount of an affected tenant after giving notice of a change in use;

(2) give all notice required by this section in writing. All notice must be posted on the affected tenant's manufactured home and sent to the affected tenant by certified mail, return receipt requested, addressed to the tenant at an address specified in the rental agreement or at the tenant's last known address if an address is not specified in the rental agreement;

(3) provide, along with the one-year notice required by paragraph (1) of this subsection, a relocation plan (Plan) to each affected tenant of the manufactured home community. The Plan must be written in a straightforward and easily comprehensible manner and include the following:

a. the location, telephone number, and contact person of other manufactured home communities, known to the landlord after reasonable effort, within a 25-mile radius of the manufactured home community where the change of land use is intended;

b. the location, telephone number, and contact person of housing for tenants with disabilities and for older tenants, known to the landlord after reasonable effort, within a 25-mile radius of the manufactured home community where the change of land use is intended;

c. a listing, known to the landlord after reasonable effort, of government and community agencies available to assist tenants with disabilities and older tenants;

d. a basic description of relocation and abandonment procedures and requirements;

e. a preliminary indication of whether a tenant's manufactured home can or cannot be relocated;

f. a copy of this section of the Code;

(4) submit the Plan to the Delaware Manufactured Home Relocation Authority at the same time that the Plan is submitted to the affected tenants;

(5) update the Plan and distribute the updated Plan every three months. If the landlord fails to provide a quarterly update to each affected tenant and to the Authority, the date of termination of the tenant's rental agreement will be extended by one month for each omitted quarterly update;

(6) during the relocation process observe and comply with all federal, State, and local laws relating to older tenants and tenants with disabilities.

(c) If a manufactured home community owner does not in good faith intend to change the land use of the community, yet provides a homeowner or tenant with a termination or nonrenewal notice pursuant to subsection (b) of this section, the community owner has committed the act of misrepresentation with intent to deceive the homeowner or tenant.

(1) A violation of this subsection is subject to the following civil penalties:

- a. A cease and desist order;
- b. Payment of a monetary penalty of not more than \$250 for each violation;
- c. Restitution;
- d. Such other relief as is reasonable and appropriate; and
- e. Double the monetary penalty if the homeowner or tenant is over 65 years old.

(2) Prima facie evidence that a community owner did not intend in good faith to change land use includes, but is not limited to, evidence that the community owner reused the land for lot rentals for manufactured homes within 7 years of providing a tenant with a termination or nonrenewal notice, and did not make a material and bonafide effort to change the subdivision plan or zoning designation, or both.

(3) A court may award attorneys' fees and costs to a homeowner if it determines that the community owner violated this section.

(d) If a landlord has given the required notice to a tenant and has fulfilled all other requirements of this subchapter, the failure of the Authority to perform its duties or authorize payments does not prevent the landlord from completing the change in use of land. (25 Del. C. 1953, § 7011; 58 Del. Laws, c. 286; 58 Del. Laws, c. 472, § 4; 65 Del. Laws, c. 446, § 1; 66 Del. Laws, c. 268, § 1; 74 Del. Laws, c. 35, § 2; 75 Del. Laws, c. 375, §§ 2, 3.)

§7010A. Termination or nonrenewal of rental agreement by landlord; due cause: noncompliance.

(a) A landlord may terminate a rental agreement with a tenant immediately upon written notice if the tenant does not comply with the terms of the rental agreement or the requirements of this subchapter and the noncompliance is the result of:

(1) clear and convincing evidence that conduct of the tenant or of a resident of the tenant's manufactured home caused, is causing, or threatens to cause, immediate and irreparable harm to any person or property in the manufactured home community;

(2) conviction of a crime or adjudication of delinquency committed by a tenant or by a resident of the tenant's manufactured home, the nature of which at the time of the crime or act of delinquency caused immediate and irreparable harm to any person or property in the manufactured home community;

(3) clear and convincing evidence of a material misrepresentation on the tenant's application to rent a lot in the manufactured home community which, if the truth were known, would have resulted in the denial of the application;

(4) the failure of the tenant to provide proper notification to the landlord prior to selling or transferring to a buyer or transferee title of a manufactured home which the buyer or transferee intends to retain in the manufactured home community, pursuant to §7022(c) of this subchapter; or

(5) the failure of a tenant to bring his or her manufactured home into compliance with written standards pursuant to §7020(b) or §7022(e) of this subchapter.

(b) A landlord may terminate a rental agreement with a tenant by providing prior written notice as follows:

(1) If the tenant's noncompliance with the terms of the rental agreement or the requirements of this subchapter involves conduct of the tenant, of a resident of the tenant's manufactured home, or of a guest or visitor of the tenant or resident which results in the disruption of the rights of others entitled to the quiet enjoyment of the premises, the landlord shall notify the tenant in writing to immediately cause the conduct to cease and not allow its repetition. The notice must specify the conduct which formed the basis for the notice and notify the tenant that if substantially the same conduct recurs within 6 months, whether or not the 6-month period falls within one lease period or overlaps two lease periods, the landlord may immediately terminate the rental agreement and bring an action for summary possession; or

(2) If the noncompliance is based upon a condition on or of the premises of the manufactured home community, the landlord shall notify the tenant in writing, specifying the condition constituting the noncompliance and allowing the tenant 12 days from the date of mailing or personal service to remedy the noncompliance. If the tenant remains in noncompliance at the expiration of the 12-day period, whether or not the 12-day period falls within one lease period or overlaps 2 lease periods, the landlord may immediately terminate the rental agreement and bring an action for summary possession; or

(3) If rent, which includes late fees for rent, other fees and charges, including utility charges, and the Trust Funds assessment, is not received by the landlord by the fifth day after the due date or during the grace period stated in the rental

agreement, whichever is longer, the landlord shall notify the tenant in writing, demanding payment and stating that unless the required payment is made within seven (7) days from the date of mailing or personal service, the rental agreement will be terminated. If the tenant remains in default after the 7-day period, whether or not the 7-day period falls within one lease period or overlaps two lease periods, the landlord may terminate the rental agreement and bring an action to recover the rent due and for summary possession.

(c) Whether or not repeated instances of noncompliance fall within one lease period or overlap two or more lease periods, if there are repeated instances of noncompliance by the tenant with a provision of the rental agreement, with any rule or regulation material to the rental agreement, or with a provision of this subchapter, even when corrected by the tenant, a landlord may immediately terminate the rental agreement and bring an action for summary possession and any monies due, or may refuse to renew the agreement pursuant to §7007 of this subchapter. 'Repeated instances of noncompliance' include:

(1) failure of the tenant on 4 separate occasions within 12 consecutive payment periods, to make a rent payment by the 5th day after the due date or during the grace period stated in the rental agreement, whichever is longer, resulting in notice being sent to the tenant pursuant to subsection (b)(3) of this section;

(2) failure of the tenant on 2 separate occasions within 12 consecutive payment periods to reimburse a landlord within 7 days of notice from the landlord to the tenant that the landlord paid the tenant's utility charge;

(3) tender by the tenant on 2 separate occasions within 12 consecutive payment periods of a bank draft or check which is dishonored by a financial institution for any reason, except for a mistake by the financial institution;

(4) four separate incidents of noncompliance as described in subsection (b)(1) or (2) of this section within a 12-month period; or

(5) any combination of four separate incidents of noncompliance as described in any paragraph of this subsection within a 12-month period.

(d) A landlord may not terminate a rental agreement or refuse to renew a rental agreement pursuant to subsection (c)(1) of this section unless the landlord notifies the tenant after the 3rd separate occasion within 12 consecutive payment periods that a subsequent incident of noncompliance described in subsection (c)(1) of this section may result in either the immediate termination of the rental agreement or the non-renewal of the rental agreement at its expiration.

(e) In an action for summary possession based on nonpayment of rent, the tenant is entitled to raise by defense or counterclaim any claim against the landlord that is related to the rental of the lot.

(f) A notice sent to a tenant advising the tenant that the rental agreement is terminated or will be terminated or will not be renewed must specify the reasons for such action in sufficient detail so that the dates, places, and circumstances concerning the termination are clear. Mere reference to or recital of the language of this section is not sufficient.

(g) A landlord's right to terminate a rental agreement prior to the expiration of the agreement or right to refuse to renew at the expiration of the agreement does not arise until the landlord has complied with the applicable notice provision upon which the landlord is relying for the termination or non-renewal of the agreement.

§7011. Delaware Manufactured Home Relocation Authority.

(a) The Delaware Manufactured Home Relocation Authority ('Authority') is administered by a board of directors made up of nine members, four of whom are appointed by the Governor from a list of at least 10 nominees submitted by the largest not-for-profit association representing manufactured home owners in this State. Of the four, one must be an owner and resident of a manufactured home located in Sussex County, one must be an owner and resident of a manufactured home in Kent County, and one must be the owner and resident of a manufactured home in New Castle County. The fourth must be an owner of, but need not necessarily reside in, a manufactured home located in this State. Another four members are appointed by the Governor from a list of at least 10 nominees submitted by the largest not-for-profit association representing the manufactured home industry in this State. Two out of 4 of these members must reside in this State, and each member must be either a community owner or an agent or designated representative of a community owner. One additional member is appointed by the Governor from the public-at-large. There is no requirement that the at-large member reside in Delaware. All members of the board of directors serve for 6-year terms. Each term ends on June 30. The terms are staggered so that no more than the terms of 3 members end on any June 30. The Governor shall designate one member of the board of directors as the chairperson of the board.

(b) (1) The board of directors of the Authority may employ or retain such persons as are reasonable and necessary to perform the administrative and financial transactions and responsibilities of the Authority and to perform other necessary and proper functions not prohibited by law. The Authority is responsible for all direct and indirect costs for its operations, including, but not limited to, receipts and disbursements, personnel, rental of facilities, and reimbursement to other State agencies for services provided and, therefore, must be fiscally revenue-neutral.

(2) Members of the board of directors of the Authority may be reimbursed from monies of the Authority for actual and necessary expenses incurred by them as members, but may not otherwise be compensated for their services.

(3) There is no civil liability on the part of, and no civil cause of action of any nature against, the Authority, an agent or employee of the Authority, the board of directors of the Authority, or a member of the board of directors of the Authority for any act or omission in the performance of powers and duties under this subchapter unless the act or omission complained of was done in bad faith or with gross or wanton negligence.

(4) Meetings of the board of directors of the Authority are subject to the provisions of the Freedom of Information Act, Chapter 100 of Title 29. All meetings must be conducted at a central location in the State, unless agreed to for a given meeting by 75% of the board members.

(c) The Authority's board of directors shall:

- (1) adopt a plan of operation and articles, bylaws, and operating rules;
- (2) establish procedures under which applicants for payments from the Authority may be approved;

(3) authorize payments and adjust, eliminate, or reinstate the Trust Fund assessment established in §7012 of this subchapter only if a minimum of 75% of the members of the board of directors approve the payments or assessments.

(d) The Authority and its board of directors may:

- (1) sue or be sued;
- (2) borrow from private finance sources and issue notes or vouchers in order to meet the objectives of the Authority and those of the Trust Fund established in §7012 of this subchapter.

§7012. Delaware Manufactured Home Relocation Trust Fund.

(a) The Delaware Manufactured Home Relocation Trust Fund (Trust Fund) is established in the Division of Revenue of the Department of Finance for exclusive use by the Delaware Manufactured Home Relocation Authority to fund the Authority's administration and operations. All interest earned from the investment or deposit of monies in the Trust Fund must be deposited into the Trust Fund.

(b) Monies in the Trust Fund may be expended only:

- (1) to pay the administrative costs of the Authority; and
- (2) to carry out the objectives of the Authority by assisting manufactured home owners who are tenants in a manufactured home community where the community owner intends to change the use of all or part of the land on which the community is located or where the community owner intends to convert the manufactured home community to a manufactured home condominium community or to a manufactured home cooperative community pursuant to Chapter 71 of this title, and by assisting manufactured home community owners with the removal and/or disposal of non-relocatable or abandoned manufactured homes.

(3) After notifying the manufactured home owners who are tenants in a community owner's manufactured home community that the community owner intends to change the land use or to convert the community pursuant to paragraph (b)(2) of this section, if the community owner does not change the land use or convert the community within 3 years of notification, or if the Authority finds there is prima facie evidence under § 7010(c)(2) of this title that the owner did not intend in good faith to change land use, the community owner shall within 30 days of the date the Authority provides written notice to the community owner, reimburse the Authority for whatever moneys the Authority has expended from the Trust Fund with respect to that manufactured home community, along with double the legal interest rate. The date of the mailing of notice by the Authority is deemed the date that a community owner is notified about reimbursing the Authority. However, if the community owner, with due diligence, has not been able to complete the change-in-use process within 3 years, the Authority may grant a reasonable extension to the community owner to complete the process.

(c) The Trust Fund terminates on July 1, 2014 unless terminated sooner or extended by the General Assembly.

(d) The cap on the Trust Fund is \$10 million. The cap may be adjusted, eliminated, or reinstated by the board of directors of the Authority at any time, subject to the voting requirements of §7011(c)(3) of this subchapter.

(e) If the Trust Fund ceases to exist, the funds held at the time of dissolution must be liquidated as follows:

(1) 50% of the total funds, on a per capita basis, to tenants of rented lots in manufactured home communities in Delaware who have occupied the lots for at least the 12 months immediately prior to the time of the dissolution; and

(2) 50% of the total funds to landlords owning rented lots at the time of dissolution, prorated on the number of lots actually rented by the landlords for at least the 12 months immediately prior to the time of dissolution.

(f) (1) The board of directors of the Authority shall set a \$3.00 monthly assessment for deposit in the Trust Fund for each rented lot in a manufactured home community. The board may adjust, eliminate, or reinstate the assessment, and shall notify landlords and tenants of each adjustment, elimination, or reinstatement pursuant to Board regulations. If the board does not adopt an adjusted assessment on or before January 31, 2006, the board shall eliminate the fee in its entirety.

(2) One-half of the monthly assessment set pursuant to paragraph (1) of this subsection is the obligation of the tenant of the rented lot, and one-half of the assessment is the obligation of the landlord. The landlord shall collect the tenant's portion of the assessment on a monthly basis as additional rent. The landlord shall remit to the Trust Fund both its portion and the tenant's portion of the assessment on a quarterly basis. The landlord is responsible for safeguarding all assessments it collects. Failure by a tenant to pay to the landlord the tenant's portion of the assessment as additional rent is grounds for termination of the rental agreement pursuant to §7010A of this subchapter. The board of directors may place a lien against the property of any person who is required to pay the assessment to the Trust Fund, but fails to do so. An assessment is not due or collectable for a vacant lot.

(3) If a lot is rented for any portion of a month, the full monthly assessment must be paid to the Trust Fund.

(4) If a rental agreement contains a capping provision which limits the amount by which rent may be increased, the Trust Fund assessment is deemed not to be rent for purposes of rent increases.

(g) The Authority may not for any reason, including age, income level, or geography, exempt any landlord or tenant from paying the Trust Fund assessment.

(h) The Trust Fund must be audited annually. If the State Auditor's Office performs the audit, the Authority shall pay to the State from the Trust Fund the cost of the audit. The completed audit must be made available to the public by placing it on a website, by offering it as a hard copy for a fee which reflects reasonable reproduction cost, or in some other manner determined by the Authority.

(i) In addition to providing for an annual audit pursuant to subsection (h) of this section, the Authority shall make available to the public, at least on a quarterly basis, the amount of the payment made to each tenant and landlord, along with a description of the property related to the payment and the reason for the payment.

§7013. Relocation expenses; payments for non-relocatable homes.

(a) If a tenant is required to relocate due to a change in use or conversion of the land in a manufactured home community as set forth in §7010(b) and complies with the requirements of this section, the tenant is entitled to payment from the Trust Fund of the lesser of:

(1) the actual, reasonable expenses of moving the manufactured home and existing appurtenances to a new location within a 25-mile radius of the vacated manufactured home community including, but not limited to, the cost of taking down, moving, and setting up the home in a new location; or,

(2) the maximum relocation payment, which must be established by the Authority's board of directors. The determination by the board of the amount of a relocation payment is final and may not be appealed.

(b) A tenant is not entitled to compensation for relocation under subsection (a) of this section if:

(1) the landlord moves the tenant's manufactured home by mutual consent to another lot in the manufactured home community or to another manufactured home community at the landlord's expense;

(2) the tenant is vacating the manufactured home community and so informed the landlord before notice of the change in use was given;

(3) the tenant abandons the manufactured home as set forth in subsection (g) of this section; or

(4) the tenant has failed to pay the tenant's share of the Trust Fund assessment during the course of the tenancy.

(c) Compensation for non-relocatable homes.

(1) A tenant is entitled to compensation from the Trust Fund for his or her manufactured home if the home, which is on a lot subject to a change in use of land, cannot be relocated. The board of directors of the Authority shall establish criteria for determining whether a home can or cannot be relocated. The criteria must include:

(i) availability of a replacement home site; and

(ii) feasibility of physical relocation.

(2) If the board determines that a manufactured home cannot be relocated pursuant to paragraph (1) of this subsection, the board shall provide compensation to the tenant. The amount of compensation, as determined by a board-approved, certified manufactured home appraiser, is the fair market value of the home as sited and any existing appurtenances, but excludes the value of the underlying land. However, the amount of compensation may not exceed an amount set by the board and which may be adjusted from time to time by the Board, to be paid in exchange for the title of the non-relocatable manufactured home. Prior to receiving payment for a non-relocatable home, the tenant must deliver to the board the current title to the home duly endorsed by the owner or owners of record, valid releases of all liens shown on the title, and a tax release. The board shall then relinquish the title to the landlord to facilitate the removal and/or disposal of the home from the manufactured home community. For the purpose of compensation to the landlord pursuant to §7014 of this subchapter, a home that cannot be relocated is deemed abandoned. The determination of the board as to the amount of compensation is final and may not be appealed.

(d) Except as provided for abandonment in subsection (f) of this section, in order to obtain payment from the Trust Fund for the relocation of a manufactured home, a tenant must submit to the Authority, with a copy to the landlord, an application for payment which includes:

(1) a copy of the notice of termination or nonrenewal of the rental agreement due to change in use of land, as required by §7010(b)(1) of this subchapter; and

(2) a contract with a licensed moving or towing contractor for the moving expenses for the manufactured home.

(e) The Authority shall approve or reject payment to a moving or towing contractor within 30 days after receipt of the information required by this section, and forward a copy of the approval or rejection to the tenant, with a voucher for payment if payment is approved.

(f) In lieu of collecting payment from the Trust Fund pursuant to subsection (a) of this section, a tenant may abandon the manufactured home in the manufactured home community and collect from the Trust Fund \$1,500.00 for a single-section home or \$2,500.00 for a multi-section home, as long as the tenant delivers to the Authority a current State of Delaware title to the manufactured home duly endorsed by the owner or owners of record, valid releases of all liens shown on the title, and a tax release.

§7014. Payment of funds to landlord for removal and/or disposal of abandoned homes.

(a) A landlord is entitled to receive from the Trust Fund payment in an amount determined by the Board to be sufficient to remove and/or dispose of a non-relocatable or abandoned manufactured home pursuant to §7013(c) and (f) of this subchapter.

(b) Payment for removal and/or disposal of a manufactured home pursuant to subsection (a) of this section must be authorized by the Authority and made in the form of a voucher issued to the Division of Revenue of the Department of Finance, directing the Division to issue a check in a designated amount to the landlord.

(c) If the Trust Fund does not have sufficient monies to make a payment to a landlord pursuant to this section, the Authority shall issue a written promissory note to the landlord for funds due and owing. Promissory notes may be redeemed in order of issuance of the notes as additional monies come into the Trust Fund.

(d) If a landlord realizes a profit from the removal and/or disposal of a manufactured home, the landlord shall reimburse the Trust Fund for any profit gained by the landlord pertaining to that home.

(e) A landlord may not receive payment from the Trust Fund if the landlord has failed to pay the landlord's share of the total Trust Fund assessment during the course of tenancies or has failed to remit the tenants' share as required by §7012(f)(2) of this subchapter.

(f) It is a class A misdemeanor for a landlord or a landlord's agent to file any notice, statement, or other document required under this section which is false or contains a material misstatement of fact.

§7015. Payment of funds to homeowners.

(a) When a payment to a tenant is authorized by the Authority, payment must be made in the form of a voucher issued to the Division of Revenue of the Department of Finance, directing the Division to issue a check in a designated amount to the named tenant.

(b) If the Trust Fund does not have sufficient monies to make a payment to a tenant pursuant to this section, the Authority shall issue a written promissory note to the tenant for funds due and owing. A promissory note may be redeemed in order of issuance of the notes as additional monies come into the Trust Fund.

(c) It is a class A misdemeanor for a tenant or a tenant's agent to file any notice, statement, or other document required under this section which is false or contains a material misstatement of fact.

§7016. Holdover remedies after rental agreement terminates, expires, or is not renewed.

Following a determination by a court of competent jurisdiction that a landlord is entitled to possession of a rented lot in a manufactured home community, if the tenant continued in and/or continues in possession of the lot after the date of termination, expiration, or non-renewal of the rental agreement without the consent of the landlord, the tenant is liable for, and the landlord is entitled to receive, a payment of double the periodic rent under the terminated, expired, or non-renewed rental agreement, but only if the tenant held over and/or holds over in bad faith. Double-rent is computed and prorated for each day the tenant remained in and/or remains in possession of the lot after the date on which the rental agreement terminated, expired, or was not renewed. If a holdover is determined to be in good faith, the landlord is entitled to a payment of the periodic rent under the rental agreement, computed and prorated for each day the tenant remained in and/or remains in possession of the lot after the date on which the rental agreement terminated, expired, or was not renewed.

§7017. Effect of unsigned rental agreement.

(a) If the landlord does not sign a written rental agreement which has been signed and tendered to him or her by the tenant, acceptance of rent from the tenant without reservation by the landlord gives to the rental agreement the same effect as if it had been signed by the landlord.

(b) If the tenant does not sign a rental agreement which has been signed and tendered to him or her by the landlord, acceptance of possession of the rented lot and payment of rent without reservation give to the rental agreement the same effect as if it had been signed by the tenant.

(c) Even if a rental agreement which is given effect by the operation of this section provides for a term longer than 1 year, it operates to create only a 1-year term.

§7018. Security deposits; pet security deposits.

(a) (1) A landlord may require a tenant to pay a security deposit if provided for in the rental agreement.

(2) A landlord may not require a tenant to pay a security deposit in an amount in excess of 1 month's rent unless the tenant agrees to do so and the full amount is specified in the rental agreement.

(b) (1) Every security deposit paid to a landlord must be placed by the landlord in an escrow bank account in a federally-insured financial institution with an office that accepts deposits within the State. The account must be designated as a security-deposits

account and may not be used by the landlord for any purposes other than those described in subsection (c) of this section. The landlord shall disclose in the rental agreement the location of the security deposit account. If the landlord changes the location of the security deposit account, the landlord shall notify each tenant of the new location within 30 days of the change. Security deposit principal must be held and administered for the benefit of the tenant, and the tenant's claim to such money has priority over that of any creditor of the landlord, including, but not limited to, a trustee in bankruptcy, even if such money is commingled.

(2) A security deposit paid pursuant to a new rental agreement signed on or after the effective date of this subchapter must be immediately escrowed pursuant to paragraph (1) of this subsection. A security deposit paid as provided for in an existing rental agreement signed prior to the effective date of this subchapter must be escrowed pursuant to paragraph (1) of this subsection on or before June 30, 2005.

(c) The purposes of a security deposit are:

(1) to reimburse a landlord for actual damages which exceed normal wear and tear to the landlord's property and which were caused by the tenant;

(2) to pay a landlord for all rent, rent arrearage, fees, charges, Trust Fund assessments, and other monies due and owed to the landlord by the tenant;

(3) to reimburse a landlord for all reasonable expenses incurred in renovating and re-renting the landlord's property caused by the premature termination of the rental agreement by the tenant, except for termination pursuant to §7009 of this subchapter.

(d) Within 20 days after the expiration or termination of a rental agreement, the landlord shall provide the tenant with an itemized list of damages, if any, to the landlord's property and the estimated cost of repair for each item. The landlord shall tender payment for the difference between the security deposit and the cost for repair of damage to the landlord's property. Failure to do so constitutes an acknowledgment by the landlord that no payment for repair of damage is due. A tenant's acceptance of a payment submitted with an itemized list of damages constitutes agreement on the damages as specified by the landlord, unless the tenant objects in writing within 10 days of receipt of the landlord's tender of payment to the amount withheld by the landlord.

(e) If a landlord is not entitled to all or any portion of a security deposit, the landlord shall remit to the tenant within 20 days of the expiration or termination of the rental agreement the portion of the security deposit to which the landlord is not entitled.

(f) Penalties.

(1) Failure by a landlord to remit to a tenant the security deposit or the difference between the security deposit and the cost for repair of damage within 20 days from the expiration or termination of the rental agreement entitles the tenant to double the amount wrongfully withheld.

(2) Failure by a landlord to disclose the location of the security deposit account within 20 days of a written request by a tenant or failure by a landlord to deposit a security deposit in a federally-insured financial institution with an office that accepts deposits within the State results in forfeiture of the security deposit by the landlord to the tenant. Failure by a landlord to return the full security deposit to a tenant pursuant to this paragraph within 20 days from the effective date of forfeiture entitles the tenant to double the amount of the security deposit.

(g) All communications and notices required under this section must be directed to a landlord at the address specified in the rental agreement and to a tenant at an address specified in the rental agreement or at a forwarding address, if a forwarding address was provided to the landlord in writing by the tenant. Failure by a tenant to provide a forwarding address relieves the landlord of the responsibility to give notice pursuant to this section and removes the landlord's liability for double the amount of the security deposit. However, the landlord continues to be liable to the tenant for any unused portion of the security deposit if, within one year from the expiration or termination of the rental agreement, the tenant makes a claim in writing to the landlord.

(h) Pet deposits.

(1) A landlord may require a tenant to pay a pet security deposit for each pet if provided for in the rental agreement. Damage to a landlord's property caused by a tenant's pet must first be deducted from the pet security deposit. If the pet deposit is insufficient, pet damages may be deducted from the tenant's non-pet security deposit.

(2) If a non-pet security deposit is insufficient to cover non-pet damages described in subsection (c) of this section, damages may be deducted from the pet security deposit even if such damages were not caused by a pet. A pet security deposit is a type of security deposit and is subject to subsections (b), (d), (e), (f), and (g) of this section.

(3) A landlord may not require a tenant to pay a pet security deposit in an amount in excess of 1 month's rent, unless the tenant agrees to do so and the full amount is specified in the rental agreement.

(4) A landlord may not require a pet security deposit from a tenant if the pet is a certified and trained support animal for a person with a disability who is a resident of a manufactured home on a rented lot.

(5) Notwithstanding legal ownership of a pet, for purposes of this subchapter, a pet that resides in a manufactured home, and/or on the lot where the home is located in a manufactured home community, is deemed owned and controlled by a tenant who resides in the manufactured home.

(i) If a rental agreement so specifies, a landlord may increase a security deposit commensurate with an increase in rent. If an increase of the security deposit exceeds 10 percent of the monthly rent, the tenant may choose to pay the increase in the security deposit prorated over the term of the rental agreement but not to exceed 12 months, except in the case of a month-to-month tenancy, in which case payment of the increase may not be prorated over a period in excess of 4 months unless mutually agreed to by the landlord and tenant.

§7019. Rules.

(a) A landlord may promulgate reasonable written rules concerning the occupancy and use of the premises and the use of the landlord's property, and concerning the behavior of manufactured home community tenants, residents, guests, and visitors, provided that the rules further any of the following purposes:

- (1) promoting the health, safety, or welfare of tenants, residents, guests, or visitors;
- (2) promoting the residents' quiet enjoyment;
- (3) preserving the property values of tenants and/or landlords;

(4) promoting the orderly and efficient operation of the manufactured home community;

(5) preserving the tenants' and/or landlords' property from abuse.

(b) A landlord may not arbitrarily or capriciously enforce a rule. A landlord may choose not to enforce a rule based upon the documented special needs or hardship of a tenant or resident without waiving the right to the later enforcement of the rule as to that tenant or resident or any other tenant or resident.

(c) A landlord may amend an existing rule at any time, but the amended rule is not effective until the date specified in the amended rule or sixty (60) days after the landlord delivers to the tenant written notice of the amended rule, whichever is later.

(1) Within ten (10) days of the landlord's notice of an amended rule, a committee, not to exceed five members, may be chosen by any method agreed to by the tenants of the manufactured home community.

(2) The committee shall meet with the landlord at a mutually convenient time and place to discuss the amended rule.

(3) At the meeting, the landlord shall disclose and explain all material factors and present any supporting documentation for the amended rule.

§7020. Manufactured home standards.

(a) Standards for manufactured homes of new tenants.

(1) A landlord shall adopt reasonable written standards regarding the size, age, quality, appearance, construction, materials, and safety features for a manufactured home entering the landlord's manufactured home community.

(2) A landlord may refuse to allow the placement of a manufactured home on a lot in the manufactured home community if the manufactured home does not comply with the reasonable written standards adopted pursuant to paragraph (1) of this subsection.

(b) Standards for manufactured homes not for sale. A tenant who is residing in a manufactured home community at the time a standard is promulgated must bring his or her manufactured home into compliance with the standard within 9 years of the promulgation of the standard or be subject to a summary possession proceeding pursuant to Chapter 57 of this title. However, if a change in a manufactured home is necessary to protect life or for other safety reason, the landlord may require that the change be made in less than 9 years. Once work begins on the manufactured home, the necessary change must be completed within a reasonable time.

(c) Standards for manufactured homes for resale or transfer of title and retention in the manufactured home community.

(1) A landlord shall adopt reasonable written standards regarding the resale or transfer of title of a manufactured home intended for retention in the landlord's manufactured home community. The standards must relate only to appearance, maintenance, safety, and compliance with State and local housing, building, or health codes, and the 1976 HUD Code. A landlord may not issue standards in which the age of a manufactured home is the exclusive or dominant criterion prohibiting the home from being sold and retained in the community after the sale is consummated.

(2) If a manufactured home does not meet a landlord's written standards for resale or transfer of title and retention in the manufactured home

community, a tenant may attempt to bring the home into compliance with the standards. The landlord shall, within ten (10) days of a written request from the tenant, re-evaluate the home in a reasonable and fair manner.

(d) A standard promulgated pursuant to subsection (a), (b), or (c) of this section may not be arbitrarily or capriciously enforced. A landlord may choose not to enforce a standard based upon the documented special needs or hardship of a tenant without waiving the right to the later enforcement of the standard as to that tenant or any other tenant.

(e) A landlord may at any time establish or amend a standard promulgated pursuant to subsection (a), (b), or (c) of this section, but an established or amended standard promulgated pursuant to subsection (b) or (c) of this section is not effective until the date specified in the established or amended standard or sixty (60) days after the landlord delivers to the tenant written notice of the established or amended standard, whichever is later.

(1) Within ten (10) days of the landlord's notice of the established or amended standard, a committee, not to exceed five members, may be chosen by any method agreed to by the tenants of the manufactured home community.

(2) The committee shall meet with the landlord at a mutually convenient time and place to discuss the established or amended standard.

(3) At the meeting, the landlord shall disclose and explain all material factors and present any supporting documentation for the established or amended standard.

§7021. Rent increases.

A landlord may not increase a tenant's lot rent more than once during any 12-month period, regardless of the term of the tenancy or the term of the rental agreement. A landlord shall give written notice of a lot rent increase to a tenant a minimum of 60 days prior to the effective date of the rent increase.

§ 7021A. Lot Rental Assistance Program.

(a) A homeowner or tenant in a manufactured home community who is eligible for Social Security Disability (SSD) or Supplemental Security Income (SSI) benefits or who is 62 years of age or older is eligible for lot rental assistance from the manufactured home community owner if the following criteria are met:

(1) The homeowner or tenant must have owned his or her manufactured home and/or resided in the home in the manufactured home community prior to July 1, 2006.

(2) The homeowner or tenant must reside full time and exclusively in the manufactured home in the manufactured home community, and the manufactured home must be the homeowner or tenant's only residence.

(3) The lot rent, excluding utility charges and other charges, fees, and assessments that are part of the services rider required under § 7006(a)(9) of this title, must exceed 30% of the income definition, as stated in the Delaware State Housing Authority Fact Book (DSHA Fact Book), or its successor document, for the United States Department of Housing and Urban Development (HUD) for the county median income limits based upon 40% of the county's median income for the number of residents in the home. For purposes of this section, "income" includes the income of all occupants of the manufactured home, whether or not an occupant is a tenant, and of all tenants of the manufactured home, whether or not a tenant is an occupant.

(4) The total liquid assets, including but not limited to bank accounts, stocks, and bonds of the homeowner or homeowners, tenant or tenants, and other residents, may not exceed \$50,000.

(5) The homeowner, tenant, and other residents must provide to the community owner all documentation necessary to determine eligibility for lot rental assistance, such as bank records, eligibility letters, tax returns, and brokerage statements.

(6) The homeowner, tenant, and other residents and the manufactured home must be in substantial compliance with all manufactured home community rules, regulations, and standards.

(b) The homeowner, tenant, and other residents may not be recipients of any other rental assistance funding, nor may the rented lot on which they reside be regulated by rent control.

(c) Lot rental assistance or rent credit received by a homeowner or tenant pursuant to this section is not transferable upon the sale of the manufactured home and/or the transfer of the rental agreement to a third-party purchaser.

(d) A homeowner or tenant who qualifies for lot rental assistance based on the criteria in subsection (a) of this section is entitled to lot rental assistance for a term of 1 year. Lot rental assistance for a qualified homeowner or tenant is a credit which is computed as the difference between the then-current lot rent and 30% of the income definition for the county median income, as stated in the DSHA Fact Book for the number of residents in the home; provided, however, that the lot rent for an eligible homeowner or tenant after application of a lot rental assistance credit may not exceed 30% of the income definition for the county median income, as stated in the DSHA Fact Book for the number of residents in the home.

(e) The homeowner or tenant has the responsibility to re-establish annually eligibility for lot rental assistance if that homeowner or tenant believes that the homeowner or tenant remains eligible for lot rental assistance. The homeowner

or tenant must re-establish eligibility within 45 days immediately before the anniversary date of the prior determination of eligibility.

(f)(1) A community owner who is required to participate in the lot rental assistance program shall provide notice of the program to all homeowners and tenants in the community, and shall provide, pursuant to paragraph (2)a. or (2)b. of this subsection, renewal notices to all program participants at least 45 days before a participant's term of assistance expires. If the community owner does not provide a renewal notice, the lot rental assistance credit remains in effect until 45 days after the community owner provides notice. Upon receiving notice, a homeowner or tenant has 45 days in which to re-establish program eligibility by providing necessary documents and information to the community owner. If the homeowner or tenant fails to re-establish eligibility within 45 days of notice, the community owner may terminate the lot rental assistance credit.

(2)a. Unless otherwise specified, renewal notice required by this subsection may be served personally upon a homeowner or tenant of a manufactured home community by leaving a copy of the notice at the homeowner's or tenant's dwelling place with an adult person who resides therein.

b. In lieu of personal service, renewal notice required by this subsection may be sent by regular first class mail with proof of mailing or by certified mail, return receipt requested, to the homeowner or tenant at the address of the homeowner or tenant's rented lot, or at an alternative address which the homeowner or tenant provided in writing to the community owner.

(g) During the period of any lot rental assistance, a homeowner or tenant must remain current with payment of rent after the application of the lot rental assistance credit, as well as with payment of utility fees and other charges and assessments. If the homeowner or tenant does not pay all lot rent after the application of the lot rental assistance credit, as well as pay utility fees and other charges and assessments on or before the due date or during the grace period provided under the law or otherwise, then the lot rental assistance credit may be immediately terminated upon notice, and the homeowner or tenant will not be eligible for further lot rental assistance.

(h) A homeowner or tenant receiving lot rental assistance credit must notify the community owner immediately of any substantial change in that homeowner's or tenant's financial situation or in the composition of the household.

(i) Any intentional misrepresentation by an applicant of that applicant's financial situation or living arrangements which, if the truth were known, would have resulted in the denial of lot rental assistance shall result in the immediate termination of all lot rental assistance, and an immediate obligation to reimburse all credits received under the lot rental assistance program to the point of the

initial misrepresentation. A community owner may treat the amounts due and owing as a rent delinquency.

(j) A community owner shall treat all documents and information submitted for the lot rental assistance program as confidential and may not disclose the documents or information publicly or use them in any manner other than to determine eligibility under the lot rental assistance program. Any intentional public dissemination of confidential information provided pursuant to the lot rental assistance program is subject to civil relief which is reasonable and appropriate under Delaware law.

(k) Nothing in this section prohibits the owner of a manufactured home community from offering a lot rental assistance program that provides benefits over and above the benefits set forth in this section, or that extends eligibility for participation in the program.

(l) The provisions of this section do not apply to a manufactured home community with 25 or fewer manufactured home lots; provided, however, that an owner of such a manufactured home community may voluntarily offer a lot rental assistance program to the homeowners and tenants of the community.

(m) For the purpose of benefiting persons aged 62 and older, this section establishes a narrow exception to the prohibition against housing discrimination on the basis of "age" as set forth in Chapter 46 of Title 6, otherwise known as Delaware's Fair Housing Act. (75 Del. Laws, c. 382, § 7; 70 Del. Laws, c. 186, § 1.)

§7022. Manufactured home transfer; rented lot transfer.

(a) This section governs the sale or transfer of title of a manufactured home which the buyer or transferee intends to retain in the manufactured home community.

(b) A rental agreement for a lot in a manufactured home community is not transferable from the tenant who owns the manufactured home on the lot to the buyer or transferee to whom the tenant intends to sell or transfer title to the home, unless the home qualifies for retention in the manufactured home community according to written standards promulgated pursuant to §7020 of this title, and unless the landlord accepts the buyer or transferee as a tenant. Acceptance or rejection of a buyer or transferee under this subsection must be on the same basis by which the landlord accepts or rejects any prospective tenant. A landlord who rejects a prospective tenant must give the rejected prospective tenant a written statement that explains the cause for the rejection.

(c) A tenant who owns a manufactured home in a manufactured home community and plans to sell or transfer title to the home to a buyer or transferee who intends to retain the home in the manufactured home community must notify the landlord in writing 3 weeks prior to the scheduled sale or transfer of title of the manufactured home and the transfer of the lot rental agreement, giving the name and address of the prospective buyer or transferee. Failure on the part of a tenant to so notify the landlord is grounds for termination of the tenant and landlord's rental agreement by the landlord.

(d) If a landlord accepts a prospective tenant, the transfer of an existing rental agreement must be completed using one of the following two methods. The selection of the method is at the exclusive discretion of the tenant/seller of the manufactured home, and the buyer is bound by that selection.

(1) The tenant/seller agrees to an assignment of the lease to the buyer, with all of the existing obligations and benefits, including but not limited to the rental amount under the existing rental agreement, for the remaining term of the agreement. If this option is elected, the existing rental agreement between the tenant/seller and the landlord is simultaneously assigned by the tenant-seller and assumed by the buyer and the buyer becomes the new tenant. Upon the sale, assignment, and assumption, the landlord will amend the existing rental agreement and list the buyer as the new tenant.

(2) The tenant-seller chooses to terminate the existing rental agreement. The buyer may then negotiate the terms of and enter into a new rental agreement for a full term at a rental amount set by the landlord. If this option is elected, the existing rental agreement is terminated upon the execution of the new rental agreement.

(e) Notwithstanding the provisions of this section and of §7020 of this subchapter, written standards which were in effect on January 1, 2003 relating to the sale or transfer of title of a manufactured home for retention in a manufactured home community will apply for a sale or transfer of title during 2003. For a sale or transfer on January 1, 2004 and thereafter, standards promulgated pursuant to §7020 of this subchapter apply. In addition, a buyer or transferee who becomes a tenant in a manufactured home community has 3 years from the date of the resale or transfer to complete changes to his or her manufactured home required under the written standards of the manufactured home community. However, if the changes are necessary to protect life or for other safety reasons, the landlord may require that changes be made in less than 3 years. Further, if a seller-tenant does not make necessary changes to meet the standards prior to sale, the buyer or transferee shall deposit 120% of the estimated cost of the changes necessary to meet the standards into an account jointly controlled by the landlord and the buyer or transferee. Once work begins on the manufactured home, the necessary changes must be completed within a reasonable time.

(f) A buyer or transferee who does not complete required changes pursuant to subsection (e) of this section is subject to a summary possession proceeding pursuant to Chapter 57 of this title.

§7023. Retaliatory acts prohibited.

(a) Retaliatory acts are prohibited.

(b) A retaliatory act is an attempted or completed act on the part of a landlord to pursue an action against a tenant for summary possession, to terminate a tenant's rental agreement, to cause a tenant to move involuntarily from a rented lot in the manufactured home community, or to decrease services to which a tenant is entitled under a rental agreement, after:

(1) the tenant has complained in good faith to either the landlord or to an enforcement authority about a condition affecting the premises of the manufactured home community which constitutes a violation of this subchapter or a violation of a housing, health, building, sanitation, or other applicable statute or regulation;

(2) an enforcement authority has instituted an enforcement action based on a complaint by the tenant for a violation of this subchapter or a violation of a housing, health, building, sanitation, or other applicable statute or regulation with respect to the premises;

(3) the tenant has formed or participated in a manufactured home tenants' organization or association; or

(4) the tenant has filed a legal action against the landlord or the landlord's agent for any reason.

(c) If a tenant proves that a landlord attempted to commit or committed an act pursuant to subsection (b) of this section within 90 days of the tenant's action under paragraphs 1 through 4 of subsection (b) of this section, the landlord's act is presumed to be a retaliatory act.

(d) Affirmative defenses to a claim that a landlord attempted to commit or committed a retaliatory act include proof by a preponderance of the evidence that:

(1) the landlord had due cause for termination of the rental agreement pursuant to this subchapter and gave the required notice to the tenant;

(2) the tenant's legal action against the landlord relates to a condition caused by the lack of ordinary care by the tenant or by a resident of the tenant's manufactured home or by a guest or visitor on the premises with the tenant's or resident's consent;

(3) the rented lot was in substantial compliance with all applicable statutes and regulations on the date of the filing of the tenant's legal action against the landlord; or

(4) the landlord could not have reasonably remedied the condition complained of by the tenant by the date of the filing of the tenant's legal action against the landlord.

(e) A tenant subjected to a retaliatory act set forth in subsection (b) of this section is entitled to recover the greater of 3 months' rent, or 3 times the damages sustained by the resident, in addition to the court costs of the legal action.

§7024. Delivery of written notice.

(a) Unless otherwise specified, notice required by this subchapter may be served personally upon a tenant of a manufactured home community by leaving a copy of the notice at the tenant's dwelling place with an adult person who resides therein. Notice required by this subchapter may be served personally upon a landlord or upon any other person in the employ of the landlord whose responsibility is to accept such service. If a landlord is a corporation, firm, unincorporated association, or other artificial entity, service of the notice may be made by leaving a copy of the notice at its office or place of business with an agent authorized to accept such notice or authorized by law to receive service of process. Service of notice or process may be obtained through personal service by a special process-server appointed by the court.

(b) In lieu of personal service, notice required by this subchapter may be sent by regular first class mail with proof of mailing or by certified mail, return receipt requested, to the tenant at the address of the tenant's rented lot, or at an alternative address which the tenant provided in writing to the landlord. Notice required by this subchapter may be sent by regular first class mail with proof of mailing or by certified

mail, return receipt requested, to the landlord at the landlord's last known dwelling place or at the landlord's last known office or place of business. Proof of mailing regular first class mail on US Postal Service Form 3817 or its successor, or a return receipt, signed or unsigned, for certified mail constitutes valid service of any notice required under this subchapter.

§ 7025. Enforcement.

(a) It is the duty and obligation of the Consumer Protection Unit, or its successor, of the Attorney General's Office to enforce the provisions of this subchapter. A violation of any provision of this subchapter by a landlord is within the scope of enforcement duties and powers of the Consumer Protection Unit, or its successor, of the Attorney General's Office.

(b) Whenever the Consumer Protection Unit, or its successor, of the Attorney General's Office has reasonable cause to believe that any landlord is engaged in a pattern or practice of violating or failing to comply with the terms of any provision of a rental agreement covered by this chapter, the Attorney General may commence a civil action in any court of competent jurisdiction and seek such relief as the Attorney General's Office deems necessary to enforce and to ensure the compliance with the terms of such agreement. (65 Del. Laws, c. 446, § 1; 66 Del. Laws, c. 268, § 1; 69 Del. Laws, c. 291, §§ 98(b), (c); 74 Del. Laws, c. 35, § 2; 75 Del. Laws, c. 382, § 6.)

§ 7026. Right of first offer; notice required before sale of manufactured home community.

(a) Upon reaching a decision to sell, transfer, or convey all or part of a manufactured home community, the manufactured home community's owner shall provide notice of the home owner association's right of first offer to purchase all or part of the community to the community's home owner association if one exists, to the Delaware Manufactured Home Owners Association (DMHOA) or its successor, and to the Delaware Manufactured Home Relocation Authority (Authority).

(1) The Authority shall send, pursuant to § 7024 of this title, an annual notice to all registered community owners, stating that the community owner is required to comply with the requirements of this section if the community owner decides to sell, transfer, or convey all or part of the community. In addition, the notice must state that every manufactured home community must be registered with the Delaware Manufactured Home Relocation Authority, and that all fund assessments must be paid to date prior to the sale, transfer, or conveyance of the community.

(2) The Authority shall notify the manufactured home community's owner if a home owner association for that community has been registered with the Authority.

(b) A home owner who is a community owner, or an employee, agent, or servant of, or who has any business relationship with, the community owner may not directly or indirectly participate in the process, except that the home owner may vote. Nothing herein prevents a home owner association, after a vote of the members present, from excluding a community owner, or an employee, agent, or servant of the community owner from a meeting where confidential information relating to the home owner association's strategies in connection with the purchase will be discussed.

(2) There can be only 1 home owner association per community eligible to participate in the process of this section. That home owner association must register with the Delaware Manufactured Home Relocation Authority as prescribed by the Authority. The first association to register in compliance with the requirements of this section will be the official home owner association eligible to participate in the process. In order to be eligible for registration with the Authority, the home owner association must adopt by-laws.

(c) If a home owner association wishes to use its right of first offer pursuant to subsection (a) of this section, either directly through a community owner or its designated agent, or indirectly through DMHOA or its successor or through the Authority, the association must have written bylaws. The bylaws of the incorporated home owner association will conform substantially to the material in the following model form:

The name of the corporation is "[INSERT COMMUNITY NAME] HOME OWNERS ASSOCIATION", hereinafter referred to as the "Association".

The principal office of the Association is located at the home of the acting President of the Association, but meetings of members and directors may be held at places designated by the Board of Directors within the State of Delaware, [NAME OF COUNTY] County, where the manufactured home community is located.

The name and address of the Association's registered agent in the State of Delaware is as set forth in the Certificate of Incorporation.

The corporate seal shall have inscribed thereon the name of the Association and the year of its incorporation.

Each home owner of each home site, as defined in the record plan of the community on tax parcel maps, for as long as the owner is and remains as such, is automatically a member of the Association. At all meetings of the Association,

the owner or owners of each home are entitled collectively to cast the vote or votes provided for by the Certificate of Incorporation for the Association and in these bylaws. The vote or votes may be cast in person or by proxy. The owner or owners of each home are collectively entitled to one vote on all matters. If more than one person holds an interest in a home, all persons holding an interest are members of the Association, and the vote for the home is to be exercised as they among themselves determine; but in no event may more than one (1) total vote be cast with respect to the home.

Section 1. First Meeting of the Members. The first meeting of the Members shall be called by the initial Board of Directors for the purpose of nominating and electing a Board of Directors consisting of the owners of the community's homes. The initial Board of Directors shall send each home owner notice of the meeting at least [INSERT NUMBER] days before the meeting. The notice shall specify the place, day, and hour of the meeting and shall state that the purpose of the meeting is to nominate and elect a new Board of Directors. Nominations shall be accepted by the initial Board of Directors in any form up and until the time of the election. A list of nominations, including the offices in which the nominee is interested, shall be prepared by the initial Board of Directors. Elections shall be by ballot, by plurality vote. Notwithstanding any contrary provision in the governing documents, quorum requirements for nomination and election of the first Board of Directors consisting of home owners are satisfied if the meeting is properly noticed in conformance with this section.

Section 2. Annual Meeting of the Members. The members of the Association shall meet at least once each year, which means a period of 12 consecutive months, at a time and place established by the Directors, for the purpose of nominating and electing a Board of Directors, or replacements thereto, and conducting other business that may come before the meeting. Members of the Board of Directors must be members of the Association. Nominations may be by proxy received by the Board of Directors prior to the election of the Directors, and may also be made at the meeting. A list of nominations, including the offices in which the nominee is interested, shall be prepared by the Board of Directors. The Board of Directors shall oversee the election. A Director shall remain in office until his or her replacement is elected. Elections shall be by ballot, by plurality vote.

Section 3. Special meetings. Special meetings of the members may be called at any time by the President, and must be called upon a request in writing or by the vote of the majority of the Directors, or at the request in writing of six (6) or more members of the Association.

Section 4. Notice of meetings. Written notice of each meeting of the members of the Association must be given by, or at the direction of, the secretary or the person authorized to call the meeting. Notice must be mailed, postage prepaid, or delivered by hand at least [INSERT NUMBER] days before the meeting to each

member entitled to vote at the meeting, addressed to the member's address last appearing on the books of the Association, or supplied by the member to the Association for the purpose of notice. The notice shall specify the place, day, and hour of the meeting and, in the case of a special meeting, the purpose of the meeting. No change in the time or place of a meeting for the election of Directors, as fixed by these Bylaws, may be made within the [INSERT NUMBER] days immediately before the day on which the election is to be held. In case of any change in the time or place for an election of Directors, notice must be given in person to each member entitled to vote, or be mailed to the member's last known post office address, at least [INSERT NUMBER] days before the election is held.

Section 5. List of members. The Secretary shall prepare a complete alphabetical list of members entitled to vote. The list must be open for examination by any member at the principal office of the Association and the place of election for [INSERT NUMBER] days prior to the election.

Section 6. Proxies. Each member entitled to vote is, at every meeting of the members, entitled to vote in person or by proxy, in writing and signed by the member; but no proxy may be voted after one (1) year from its date, unless it specifically provides for a longer period. A proxy is revocable at any time, and shall automatically cease upon conveyance of the home. The right to vote by proxy is subject to the right of the Board of Directors to close the transfer books or to fix a record date for voting members as hereinafter provided; and, if the Directors do not exercise this right, no vote may be cast at an election for Directors by anyone who has become a member of the Association within [INSERT NUMBER] days of the election. Only one (1) vote may be cast with respect to each home in the Community. If joint owners are unable to agree among themselves about how to vote on any given matter, they lose their right to vote on the matter, in accordance with Article II, Section 2 of these Bylaws.

Section 7. Quorum. At a noticed meeting of members entitled to cast votes, or of proxies entitled to cast votes, 33% of the total votes constitute a quorum for any action, except as otherwise provided in the Certificate of Incorporation or in these Bylaws. If, however, a quorum is not present at a meeting, the members entitled to vote have the power to adjourn the meeting, without notice other than announcement at the meeting, until a quorum is present.

Section 1. Number. The property and business of the Association shall be managed and controlled by its Board of Directors, consisting of three (3) or more Directors, not to exceed [INSERT NUMBER]. Except for the initial Board of Directors, Directors must be members of the Association.

Section 2. Election. At the first meeting of the members, as set forth above, the members shall elect the Directors for a one (1) year term. The Directors shall

hold office until the next annual election and until their successors are elected and qualify.

Section 3. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of the death, resignation, or removal of a Director, a successor shall be selected by the remaining members of the Board, though less than a quorum, by majority vote, and shall serve for the remainder of the unexpired term of the Director's predecessor.

Section 4. Compensation. A Director may not receive compensation for any service rendered to the Association. However, a Director may be reimbursed for actual expenses incurred in the performance of his or her duties.

Section 5. Action taken without a meeting. Directors have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved has the same effect as though taken at a meeting of the Directors.

Section 1. Regular meetings. After each annual election of Directors, the newly elected Directors shall meet for the purpose of organization, the election of officers, and the transaction of other business, at a place and time fixed by the members at the annual meeting. If a majority of the Directors are present at that place and time, no prior notice of the meeting is required to be given to the Directors. The place and time of the meeting may also be fixed by written consent of the Directors.

Section 2. Special meetings. Meetings of the Directors may be called by the President on [INSERT NUMBER] days notice in writing or on [INSERT NUMBER] days notice by telephone to each Director, and shall be called by the President in like manner on the written request of two (2) Directors. A majority of the Directors shall constitute a quorum, but a smaller number may adjourn from time to time, without further notice, until a quorum is secured.

Section 1. Powers. The Board of Directors has the power to:

(a) exercise for the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these Bylaws or the Certificate of Incorporation;

(b) declare the office of a member of the Board of Directors to be vacant if the member is absent from three (3) consecutive regular meetings of the Board of Directors;

(c) employ a manager, an independent contractor, or other employees as the Board considers necessary, and to prescribe their duties;

(d) close the membership rolls of the Association for a period not exceeding [INSERT NUMBER] days preceding the date of any meeting of members; and

(e) purchase the community on behalf of the home owners.

Section 2. Duties. The Board of Directors has the duty to:

(a) cause to be kept a complete record of all of its acts and corporate affairs, and to present a statement of its acts and corporate affairs to the members at the annual meeting of the members or at any special meeting when the statement is requested in writing by five (5) or more members of the Association;

(b) supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed;

(c) procure and maintain adequate liability and other insurance considered necessary or desirable in connection with the services to be performed by the Association under these Bylaws;

(d) cause all officers, employees, or independent contractors having fiscal responsibilities to be bonded, as the Board considers appropriate; and

(e) perform other duties as provided in these Bylaws.

The Board of Directors may, by resolution passed by a majority of the whole Board of Directors, designate committees that the Board considers necessary or desirable. Each committee shall consist of one (1) or more of the Directors of the Board of Directors and other member(s) of the Association as designated by the Board of Directors in the resolution. Committees shall meet at stated times or on notice to all by any of their own number. They shall adopt their own rules of procedure. A majority of committee members constitutes a quorum; the affirmative vote of a majority of the whole committee is necessary in every case. A committee has and may exercise the powers of the Board of Directors to the extent provided in the resolution that establishes it.

The officers of the Association are a president, one or more vice-presidents, a secretary, a treasurer, and other officers that may, from time to time, be chosen by the Board of Directors. The president and vice-presidents must be chosen from among the Directors. The officers of the Association hold office until their successors are chosen and qualify in their stead. An officer chosen or appointed by the Board of Directors may be removed with or without cause at any time by the affirmative vote of a majority of the whole Board of Directors. If the office of an officer becomes vacant for any reason, the vacancy must be filled by the affirmative vote of a majority of the whole Board of Directors.

Section 1. Duties of the President. The President is the chief executive officer of the Association. The President has the duty to preside at all meetings of the members and Directors; to have general and active management of the business of the Association; to see that all orders and resolutions of the Board of Directors are carried into effect; to execute all agreements and other instruments in the name of the Association and to affix the corporate seal thereto when authorized by the Board of Directors.

The President oversees the general supervision and direction of the other officers of the Association to ensure that their duties are properly performed.

The President shall submit a report of the operations of the Association for the year to the Directors at their meeting next preceding the annual meeting of the members, and to the members at their annual meeting.

The President is an ex-officio member of all committees and has the general duties and powers of supervision and management usually vested in the office of the president of a corporation.

Section 2. Vice-President. The Vice-President or Vice-Presidents, in the order designated by the Board of Directors, are vested with all the powers and are required to perform all the duties of the President in the President's absence or disability, and shall perform other duties that may be prescribed by the Board of Directors.

Section 3. President Pro Tempore. In the absence or disability of the President and the Vice-Presidents, the Board may appoint from their own number a president pro tempore.

Section 4. Secretary. The Secretary shall attend all meetings of the Association, the Board of Directors, and all committee meetings. The Secretary acts as clerk of these meetings and shall record all of the proceedings of the meetings in a book kept for that purpose. The Secretary shall give proper notice of meetings of members and Directors, and shall perform other duties that are assigned to the Secretary by the President or the Board of Directors.

Section 5. Treasurer. The Treasurer has custody of the funds and securities of the Association, and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association. The Treasurer shall deposit all monies and other valuable effects in the name and to the credit of the Association in the depositories designated by the Board of Directors.

The Treasurer shall disburse the funds of the Association as may be ordered by the Board or President, taking proper vouchers for these disbursements, and shall render to the President and Directors, whenever they may require it, an account of all the Treasurer's transactions as Treasurer and of

the financial condition of the Association; and at the regular meeting of the Board next preceding the annual members' meeting, a like report for the preceding year.

The Treasurer shall keep an account of the members of record in the manner and subject to whatever regulations that the Board of Directors may prescribe.

The Treasurer shall give the Association a bond, if required in writing by the Board of Directors, in sum and in form and with corporate security satisfactory to the Board for the faithful performance of the duties of the Treasurer's office and for the restoration to the Association, in case of the Treasurer's death, resignation, or removal from office, of all books, papers, vouchers, money, and other property of whatever kind in the Treasurer's possession and belonging to the Association. The bond and security must, if required, be provided at the Association's expense. The Treasurer shall perform other duties that the Board of Directors may from time to time prescribe or require.

Section 6. Delegation of duties. In case of the absence or disability of any officer of the Association or for any other reason considered sufficient by the majority of the Board of Directors, the Board may temporarily delegate the officer's powers or duties to any other officer or to any Director.

The books, records and papers of the Association are at all times, during reasonable business hours, subject to inspection by any member. The Certificate of Incorporation and the Bylaws of the Association are available for inspection by any member at the principal office of the Association. Copies may be purchased at a reasonable cost, to be determined by the Board of Directors, to defray copying and administrative costs, but not to exceed five dollars (\$5.00) for both documents.

All checks, drafts, or orders for the payment of money must be signed by the President and the Treasurer, or by such other officer or officers as the members of the Association may approve.

The Association is entitled to treat the title holder or holders of record of any home as members in fact of the Association, and accordingly are not bound to recognize any equitable or other claim to or interest in such home or memberships on the part of any other person, whether or not it has express or other notice thereof, save as expressly provided by the laws of Delaware.

The fiscal year of the Association begins on the first day of January of each year.

Section 1. Amendment. These Bylaws may be amended, altered, repealed, or added to at any regular meeting of the members or at any special meeting called for that purpose, by affirmative vote of the majority of the members of the Association.

All of the terms, conditions, matters, and information contained and more fully set forth in the Certificate of Incorporation and the Bylaws are incorporated by reference.

All reference herein to the masculine is deemed to include the feminine or neuter genders, and vice versa, as appropriate. All reference herein to the singular is deemed to include the plural, and vice versa, as appropriate.

IN WITNESS WHEREOF, the undersigned, being all of the Directors of the Association, have hereunto set their hands this _____ day of _____, 20____ .

Witness:

_____, Director

_____, Director

_____, Director

CERTIFICATION

I, the undersigned, do hereby certify that I am the elected and acting secretary of the [COMMUNITY] Home Owners Association, a Delaware corporation,

and that the foregoing Bylaws constitute the original Bylaws of the Association, as adopted at a meeting of the Board of Directors thereof, held

on the _____ day of _____, 20____ .

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of

the Association this _____ day of _____, 20____ .

_____, Secretary.

(d)(1) If the Authority has sent the required annual notice to a community owner and the community owner then decides to sell, transfer, or convey all or part of the manufactured home community, a right of first offer must be extended. If the Authority has informed the community owner that a registered home owner association exists in the community, the community owner must extend the right of first offer directly to the home owner association. The right of first offer must also be extended indirectly to the home owner association through DMHOA or its successor and through the Authority. The right of first offer must be sent by overnight service with signature receipt. Copies of the right of first offer must be sent pursuant to § 7024 of this title to the Consumer Protection Unit of the Office of the Attorney General of the State of Delaware and to each home owner in the affected community. If the Authority has not informed the community owner that a registered home owner association exists in the community, the community owner's notice to the Authority must include a list of the names and addresses of all home owners in the community. The Authority shall then, within 5 business days of receipt of the community owner's notice, send the notice to all home owners on the list.

(2) The notice of a right of first offer must state:

a. That the community owner has decided to sell, transfer, or convey all or part of the community;

b. The price and any special conditions material to the transaction for the sale, transfer, or conveyance of the community;

c. All significant and material information, including operating expenses and other relevant operating and capital expenditure costs related to the community. The release of this information must be preceded by a signed reasonable confidentiality statement. The statement may include penalties for breach of confidentiality;

d. That the information and confidentiality statement must be identical if a third party is reviewing the potential transaction;

e. That the home owner association has 30 calendar days from the date of mailing of the notice to respond to the offer.

(e)(1) A home owner association must respond in writing to the notice of a right of first offer and send the response by overnight service with signature receipt within 30 calendar days from the date of the mailing of the notice sent by the community owner to the association. The response must clearly indicate that:

a. The members of the association intend to accept the purchase price and any special conditions material to the transaction for the sale, transfer, or conveyance of the community, as described in the notice of right of first offer; or,

b. The members of the association do not accept the price and any special conditions material to the transaction for the sale, transfer, or conveyance of the community, as described in the notice of right of first offer, but that they intend to offer to purchase the community at an alternative price; or,

c. The members of the association have no interest in purchasing the community and that they do not intend to proceed any further in the transaction, or, if the members of the association do not respond, they shall be deemed to have notified the community owner that they have no interest in purchasing the community.

(2) An alternative offer of price for the sale, transfer, or conveyance of the community from the home owner association remains valid for 12 months, unless withdrawn by the home owner association in writing and sent to the community owner by overnight service with signature receipt.

a. A notice to withdraw an alternative offer must be approved by the members of the home owners association. The approval percentage must be stated in the notice to the community owner.

b. The community owner may not sell the community at or less than the price offered in the alternative offer from the home owner association during the 12-month period of the alternative offer, unless the offer is withdrawn as described in paragraph (e)(2)a. of this section.

c. The community owner may accept an offer higher than the original price or the alternative price, if any, offered by the home owner association without further obligation to the home owner association, regardless of the 12-month period of the alternative offer, unless there are significant and material changes in terms and conditions. However, the home owner association must be given 7 business days to match the higher offer under the following circumstances:

1. If the higher offer is less than \$40 million and the home owner association's alternate price is within 6% of the offer;

2. If the higher offer is \$40 million or greater and the home owner association's alternate price is within 4.5% of the offer.

(3) If the home owner association responds that it has no interest in purchasing the community, or fails to respond within the 30-day response period pursuant to paragraph (e)(1) of this section, or fails to respond within 7 business days pursuant to paragraph (e)(2)c. of this section, the community owner may file an affidavit of compliance, pursuant to subsection (m) of this section, at the Office of the Recorder of Deeds in the appropriate county.

(4) Failure of the home owner association to accept the price and any special conditions material to the transaction for the sale, transfer, or conveyance of the community as stated in the notice of right of first offer, or failure to state an alternative price pursuant to paragraph (e)(1)b. of this section within the 30-day response period, or failure to respond within 7 business days pursuant to paragraph (e)(2)c. of this section eliminates the right of the home owner association to purchase the community during the remainder of the 12-month period that commenced on the date of the community owner's notice of intention to sell, transfer, or convey all or part of the community.

(f) If a community owner has decided to sell, transfer, or convey all or part of the community, the community owner and the home owner association shall negotiate in good faith for the sale, transfer, or conveyance of the community to the home owner association. If a party fails to negotiate in good faith, the court shall award reasonable attorneys' fees to the prevailing party.

(g) If a home owner association gives written notice to a community owner within 30 calendar days of the association's intent to purchase the community at the community owner's specified price, along with any special conditions material to the transaction, or if the community owner agrees to sell the community at the alternative price offered by the home owner association, the home owner association has an additional 30 days to formalize the agreed price, terms, and conditions into a contract of sale. This 30-day period may not be used to renegotiate the price, terms, or conditions agreed to during the first 30-calendar-day period unless mutually agreed to in writing. Time is of the essence. Failure of the home owner association to formalize a contract of sale during the 30-day period following an agreement of price, terms, and conditions eliminates any right of the home owner association to purchase the community during the remainder of the 12-month period that commenced on the date of the community owner's notice of intention to sell, transfer, or convey all or part of the community.

(h)(1) Upon a formalized contract of sale being signed by both parties, the change of ownership of the community must be completed within 90 days. Time is of the essence.

(2) The completion date may be extended beyond the 90-day period if both parties agree to an extension. However, neither party is obligated to agree to an extension. An agreement to extend the settlement date must be in writing and signed by both parties to the transaction.

(3) If, for any reason except default by the community owner, the home owner association and the community owner do not complete the sale within the 90-day period as specified by paragraph (1) of this subsection before the expiration of the extension period agreed to by the parties under paragraph (2) of this subsection, the right-of-first-offer obligations of the community owner to the home owner association are terminated, and the community owner may sell, transfer, or convey all or part of the community to any third party at the price offered in the right of first offer, or at a higher price or lower price, for the remainder of the 12-month period that commences on the date of the community owner's notice of intention to sell, transfer, or convey all or part of the community.

(i)(1) If the Authority has sent the required annual notice to a community owner and the community owner then decides to sell, transfer, or convey all or part of the manufactured home community at auction, the community owner shall notify the home owner association directly of its intention if the Authority has informed the community owner of a registered home owner association in that community. The community owner's notice must also be sent to DMHOA or its successor, to the Authority, and to the Consumer Protection Unit of the Office of the Attorney General of the State. A copy must be sent pursuant to § 7024 of this title to each home owner in the affected community.

(2) The notice of a community owner's intention to sell, transfer, or convey all or part of the manufactured home community at auction must be sent within 10 days after a date for the auction has been established and at least 60 days prior to the date of the auction. The notice must be sent by overnight service with signature receipt. The notice must state:

- a. The intention to sell the community at auction;
- b. The date, time, and place of the auction; and
- c. The terms of the auction, which must be similar to other auction practices and standards in the area.

(3) At least 60 days prior to a scheduled auction, the community owner shall provide all pertinent information directly to the home owner association if

the Authority has informed the community owner of a registered home owner association in the community. Copies of the pertinent information must also be sent to DMHOA or its successor, to the Authority, and to the Consumer Protection Unit of the Office of the Attorney General of the State. Pertinent information, to be provided by third-party professionals, includes, but is not limited to, descriptions of topography, soils (including but not limited to a Phase I environmental soil study and a Phase II study, if required), flood plain study, wetlands study, water system, water quality, distribution system, sanitary survey, wastewater disposal, access, egress, and interior community roads, storm water drainage, electrical, telephone, and cable utility services, boundary survey, and home lot plan if available, along with a USGS plan, aerial photo, tax map, flood zone map, soils map, site photographs, and a future repair and capital improvement analysis. A community owner may not be held liable for misinformation provided by a third-party professional.

(4) Within 30 days of receiving the notice of the auction, a home owner association in the affected community may make an offer to purchase the community. If the home owner association makes an offer, and the community owner accepts the offer, the parties shall negotiate in good faith for the sale, transfer, or conveyance of the community to the home owner association. If the community owner accepts the offer, a contract shall be formalized and ownership shall be transferred as provided in subsections (g) and (h) of this section.

(5) If the home owner association makes an offer to purchase the community within 30 days after receiving the notice of the auction sale, but the community owner does not accept the offer, the community owner may proceed to auction the community. The home owner association's offer must be the minimum bid at the auction and the community owner may not accept a bid of less than the home owner association's offer.

(6) If a home owner association participates in the auction process by providing deposit monies, if required, the home owner association has the right to purchase the community within 7 days after the date of the auction for 1% higher than the winning bid with the same terms and conditions. If a home owner association decides to purchase the community for 1% higher than the winning bid under the same terms and conditions, a contract of sale must be formalized within 20 calendar days, and the change of ownership must be completed within 90 days. However, if the home owner association does not participate in the auction process, or if the home owner association fails to respond within 7 business days and to formalize a contract within 20 calendar days, or to complete the change of ownership within 90 calendar days, the community owner has no further obligation to the home owner association.

(7) If the winning bidder does not complete the transaction, and if the association still does not have the next highest bid, and if the community owner

still intends to sell the community to the next highest bidder, the association must repeat the procedure set forth in paragraph (6) of this subsection.

(8) A community owner has the right to accept or reject any auction bids.

(j) If a community owner intends to offer more than one community for sale in a single transaction, a simple majority of members of the respective home owner associations in Delaware must vote in the affirmative to support their letter of response to the community owner. If a community owner offers a Delaware community for sale, along with one or more communities not located in the State, the community owner must afford the residents of the Delaware community a right of first offer as prescribed by this section for their community, separate and apart from the community or communities not located in the State.

(k) A home owner association may transfer or assign a right of first offer only to an organization formed or controlled by the home owners to assist only in the purchase and operation of the community. Therefore, other than the preceding condition in this subsection, a right of first offer is neither transferable nor assignable.

(l) If a community owner or a home owner association fails to comply with any provision of this section, either party has standing to seek equitable relief, including declaratory relief, injunctive relief, and the appointment of a receiver. The offending party is liable for actual damages. If a court of competent jurisdiction finds that the offending party wilfully and intentionally failed to comply with the requirements of this section, it is a per se violation of the Consumer Fraud Statute, § 2511 et seq. of Title 6, and the aggrieved party may be entitled to recover treble damages. In any action under this section, the court may award reasonable attorneys' fees and costs.

(m) Affidavit of compliance with the requirements of this section.

(1) A community owner may, if appropriate under the circumstances, record in the Registry of Deeds of the county in which the community is located an affidavit in which the community owner certifies that:

a. The manufactured home community owner has complied with the requirements of this section, and has included a copy of the notice sent to the residents of the community; or

b. The sale, transfer, or conveyance of the community is exempt from this section, pursuant to subsection (n) of this section.

(2) A party acquiring an interest in a manufactured home community, and title insurance companies and attorneys preparing, furnishing, or examining

any evidence of title, have the right to rely on the truth and accuracy of all statements appearing in an affidavit recorded pursuant to paragraph (1) of this subsection, and are under no obligation to inquire further as to any matter or fact relating to the community owner's compliance with the provisions of this section.

(n) Chapter 71 of this title does not apply to the sale, transfer, or conveyance of manufactured home communities under this section.

(o) Right of first offer; exceptions to notice required before the sale of a manufactured home community. -- Notwithstanding any provision to the contrary, a manufactured home community owner is not required to give notice of or extend a right of first offer to a home owner association, to DMHOA or its successor, or to the Authority under the following circumstances:

(1) A bank, mortgage company, or any other mortgagee has foreclosed on the community and the mortgagee is selling the community at a foreclosure sale, or is selling the community after having purchased the community at a foreclosure sale;

(2) The sale, transfer, or conveyance of the community is to a family member of the community owner on the modified Table of Consanguinity or to a trust, the beneficiaries of which are family members of the owner on the modified Table of Consanguinity; or the sale, transfer, or conveyance is to a family member on the modified Table of Consanguinity who is included within the line of intestate succession if the community owner dies intestate;

(3) The sale, transfer, or conveyance is by a partnership to 1 or more of its partners;

(4) The sale, transfer, or conveyance is between joint tenants or tenants-in-common;

(5) The sale, transfer, or conveyance is by gift, devise, or operation of law;

(6) The sale, transfer, or conveyance is pursuant to eminent domain;

(7) The sale, transfer, or conveyance is to an affiliate: An "affiliate" means any individual, corporation, limited partnership, unincorporated association, or entity which holds any direct or indirect ownership interest in the community; provided, however, that the notice and extension of the right of first offer provided for herein must be granted to a home owner association where the majority interest in the ownership of the community or the power, directly or indirectly, to direct or cause the direction of the management and policies over the community, whether through ownership of voting stock, by contract, or otherwise, is sold, transferred, or conveyed to any individual, corporation,

limited partnership, unincorporated association, or other entity which has not held such a direct or indirect ownership interest in the community for 3 or more years;

(8) The sale, transfer, or conveyance is an exchange of the manufactured housing community for all, or substantially all, of other real property under § 1031 of the Internal Revenue Code[26 U.S.C. § 1031] or any other provision of the Internal Revenue Code that allows for exchanges or tax-free exchanges, regardless of whether the exchange also involves the payment of cash or other consideration.

(9) A change in use of the manufactured home community by the existing community owner. (74 Del. Laws, c. 35, § 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 336, § 1.)

§7027. Change of use; conversion.

This subchapter governs a change in use of a manufactured home community, as described in §7010(b) of this subchapter, to any use other than a conversion of the community to a manufactured home cooperative or condominium community, which is governed by Chapter 71 of this title.

TITLE 25

Property

PART VI

Manufactured Home Communities

**CHAPTER 70. MANUFACTURED HOMES AND MANUFACTURED HOME
COMMUNITIES**

Subchapter II. Tenant's Receivership

Sec.

7031. Petition for receivership.

7032. Necessary parties defendant.

7033. Defenses.

7034. Stay of judgment by defendant.

7035. Receivership procedures.

7036. Powers and duties of receiver.

7037. Discharge of receiver; costs.

§ 7031. Petition for receivership.

Any tenant or group of tenants may petition for the establishment of a receivership in a Justice of the Peace Court upon the grounds that there has existed for 5 days or more after notice to the landlord:

(1) If the rental agreement or any state or local statute, code, regulation or ordinance places a duty upon the landlord to so provide, a lack of heat, or of running water, or of light, or of electricity or of adequate sewage facilities; or

(2) Any other conditions imminently dangerous to the life, health or safety of the tenant.

§ 7032. Necessary parties defendant.

(a) Petitioners shall join as defendants:

(1) All parties duly disclosed to any of them in accordance with § 7036 of this title; and

(2) All parties whose interest in the property is a matter of public record, and whose interest in the property is capable of being protected in this proceeding.

(b) Petitioners shall not be prejudiced by a failure to join any other interested parties.

§ 7033. Defenses.

It shall be a sufficient defense to this proceeding if any defendant of record establishes that:

(1) The condition or conditions described in the petition do not exist at the time of trial;

(2) The condition or conditions alleged in the petition have been caused by the wilful or grossly negligent acts of 1 or more of the petitioning tenants or members of his or their families, or by persons on the premises with his or their consent; or

(3) Such condition or conditions would have been corrected, were it not for the refusal by any petitioner to allow reasonable access.

§ 7034. Stay of judgment by defendant.

(a) If, after a trial, the court shall determine that the petition should be granted, the court shall immediately enter judgment thereon and appoint a receiver as authorized herein; provided however, prior to the entry of judgment and appointment of a receiver, the owner or any mortgagee or the lienor of record or other person having an interest in the property may apply to the court to be permitted to remove or remedy the conditions specified in the petition. If such person demonstrates the ability to perform promptly the necessary work and posts security for the performance thereof within the time, and in the amount and manner, deemed necessary by the court, then the court may stay judgment and issue an order permitting such person to perform the work within a time fixed by the court and requiring such person to report to the court periodically on the progress of the work. The court shall retain jurisdiction over the matter until the work is completed.

(b) If, after the issuance of an order under subsection (a) of this section, but before the time fixed in such order for the completion of the work prescribed therein, there is reason to believe that the work will not be completed pursuant to the court's order or that the person permitted to do the same is not proceeding with due diligence, the court or the petitioners, upon notice to all parties to the proceeding, may move that a hearing be held to determine whether judgment should be rendered immediately as provided in subsection (c) of this section.

(c)(1) If, upon a hearing authorized in subsection (b) of this section, the court shall determine that such party is not proceeding with due diligence, or upon the actual failure of such person to complete the work in accordance with the provisions of the order, the court shall appoint a receiver as authorized herein.

(2) Such judgment shall direct the receiver to apply the security posted to executing the powers and duties as described herein.

(3) In the event that the amount of such security should be insufficient to accomplish the above objectives, such judgment shall direct the receiver to collect the rents, profits and issues to the extent of the deficiency. In the event that the security should exceed the amount necessary to accomplish the above objectives, such judgment shall direct the receiver to return the excess to the person posting the security.

§ 7035. Receivership procedures.

(a) The receiver shall be the Division of Consumer Protection of this State, or its successor agency.

(b)(1) Upon its appointment, the receiver shall make within 15 days an independent finding whether or not there is proper cause shown for the need for rent to be paid to it, and for the employment of a private contractor to correct the condition complained of in § 7031 of this title and found by the court to exist.

(2) If the receiver shall make such a finding, it shall file a copy of the finding with the Recorder of Deeds of the county where the property lies and it shall be a lien on that property where the violation complained of exists.

(3) Upon completion of the aforesaid contractual work and full payment to the contractor, the receiver shall file a certification of such with the Recorder of Deeds of the appropriate county, and this filing shall release the aforesaid lien.

(4) The receiver shall forthwith give notice to all lienholders of record.

(5) If the receiver shall make a finding at such time or any other time that for any reason the appointment of the receiver is not appropriate, it shall be discharged upon notification to the court and all interested parties, and shall make legal distribution of any funds in its possession.

§ 7036. Powers and duties of receiver.

The receiver shall have all the powers and duties accorded a receiver foreclosing a mortgage on real property, and all other powers and duties deemed necessary by the court. Such powers and duties shall include, but are not necessarily limited to, collecting and using all rents and profits of the property, prior to and despite any assignment of rent, for the purposes of:

(1) Correcting the condition or conditions alleged in the petition;

(2) Materially complying with all applicable provisions of any state or local statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the surrounding grounds;

(3) Paying all expenses reasonably necessary for the proper operation and management of the property including insurance, mortgage payments, taxes and assessments, and fees for the services of the receiver and any agent he should hire;

(4) Compensating the tenants for whatever deprivation of their rental agreement rights resulted from the condition or conditions alleged in the petition; and

(5) Paying the costs of the receivership proceeding.

§ 7037. Discharge of receiver; costs.

(a) In addition to those situations described in § 7035 of this title, the receiver may also be discharged when:

(1) The condition or conditions alleged in the petition have been remedied;

(2) The property materially complies with all applicable provisions of any state or local statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the surrounding grounds;

(3) The costs of the above work and any other costs as authorized herein have been paid or reimbursed from the rents and profits of the property; and

(4) The surplus money, if any, has been paid over to the owner.

(b) Upon subsections (a)(1) and (a)(2) of this section being satisfied, the owner, mortgagee or any lienor may apply for the discharge of the receiver after paying to the latter all moneys expended by him and all other costs which have not been paid or reimbursed from the rents and profits of the property.

(c) If the court determines that future profits of the property will not cover the cost of satisfying subsections (a)(1) and (a)(2) of this section, the court may discharge the receiver and order such action as would be appropriate in the situation, including but not limited to terminating the rental agreement; and may order the vacation of the mobile home park within a specified time. In no case shall the court permit repairs which cannot be paid out of the future profits of the property.

TITLE 25

Property

PART VI

**CHAPTER 71. CONVERSION OF MANUFACTURED HOME COMMUNITIES TO
MANUFACTURED HOME CONDOMINIUM OR COOPERATIVE COMMUNITIES**

Sec.

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§ 7101. Purpose of chapter.

This chapter provides a procedure for the orderly transition of a manufactured home community from a single-unit rental to multiple-unit usage as a manufactured home condominium or cooperative community.

§ 7102. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Affected local community" shall mean the municipality or county in which the largest portion of the real property which has been proposed as a conversion project is situated. An "affected local government" shall mean the elected council or other governing body of an affected local community;

(2) "Comparable housing" shall mean a dwelling place or manufactured home community site which is:

a. Decent, safe, sanitary and in compliance with all local and state housing codes;

b. Open to all persons regardless of race, creed, national origin, ancestry, marital status or sex;

c. Provided with facilities equivalent to that provided by the owner in the manufactured home community site which is undergoing conversion, and is equivalent to such manufactured home community in each of the following categories:

1. Apartment size or manufactured home size, or community rental space which can accommodate a manufactured home equal in size to that in which the displaced resident was formerly residing (including substantially equivalent yard space and automobile parking space);

2. Rent range;

3. Special facilities necessary for a handicapped or infirm person if the displaced resident is handicapped or infirm;

d. Located in an area not less desirable than that of the manufactured home community being converted, in regard to each of the following:

1. Accessibility to the tenant's place of employment;

2. Accessibility of community and commercial facilities;

3. Environmental quality and conditions; and

e. In accordance with additional reasonable criteria which the tenant has requested in writing at the time of making any requests under this chapter, as determined by the Attorney General;

(3) "Conversion project" shall mean the area which comprises or formerly comprised a manufactured home community which has been converted to, or which will be converted to or include a condominium, cooperative or other form of multiple-unit housing (and which includes peripheral areas used for landscaping or recreation);

(4) "Long-term vacancies" shall mean dwelling units in the manufactured home community which were not leased, or not occupied by bona fide tenants for more than 5 months prior to the preliminary notice;

(5) "Manufactured home community" shall mean any manufactured home or trailer community designed to house manufactured homes which are served by utilities on a year-round basis. This chapter shall not apply to a community or camp devoted to recreational vehicles which move to the site under their own power or can be towed to the site by an automobile;

(6) "Multiple-unit usage" means use as a manufactured home condominium or cooperative community;

(7) "Nonpurchasing tenant" shall mean a tenant who has elected not to purchase a unit or units in the proposed conversion project. A "purchasing tenant" shall mean a tenant who has agreed to purchase a unit or units in the proposed conversion project;

(8) "Owner" shall mean the legal entity (including a natural person or group of persons) which owns the real estate on which a manufactured home is located. The word "owners" refers to instances where a manufactured home community is located on 2 or more separate parcels where the owners, or the legal status or character of the owners, differ. The word "owner" shall also include "owners" unless the context indicates otherwise, and shall include any developer or other person acting in concert with, or with the consent of the owner;

(9) "Relocation assistance plan" shall mean a proposed plan of assistance to tenants which is intended to enable such tenants to obtain comparable housing with a minimum of difficulty and expense;

(10) "Tenant" shall mean a person, 18 years of age or older, who has at least a leasehold interest in a manufactured home community and who, for rent or by written or oral

contract or other good consideration, is leasing or is purchasing or has purchased a manufactured home or manufactured home site within the community. For purposes of subsection (c) of § 7103 and § 7105 of this title a tenant shall mean an individual who rents a manufactured home site or the head of household where a family rents a site. An owner of a manufactured home community owning manufactured homes or sites within the community is not a "tenant" under this chapter;

(11) "Tenant association" or "tenants' association" shall mean a group of tenants comprising at least half of those tenants residing within a manufactured home community.

§ 7103. Requisites for conversion.

(a) The conversion to multiple-unit usage of any real property on which a manufactured home community is situated shall be permitted only where the vacancy rate of manufactured home sites in the affected local community constitutes 5 percent or more of all manufactured home sites available; or the ratio of multiple-unit manufactured home housing is 25 percent or less of all manufactured home sites available in the affected community all as established according to the records of the appropriate municipal board of assessment and planning and zoning commission or county board of assessment and planning and zoning commission, as the case may be.

(b) No real property on which a manufactured home is located shall be converted into multiple-unit usage unless at least 35 percent of the tenants at the date the conversion plan is filed with the recorder of deeds have agreed to the proposed conversion; provided, however, that in the event of any vote or tally, there shall be only 1 vote for each manufactured home site.

(c) No real property on which a manufactured home community is located shall be converted into multiple-unit usage if the rent for any tenant has been raised during the 6-month period immediately prior to the preliminary notice.

§ 7104. Conversion plan.

Where real property is being utilized as a manufactured community, such real property cannot be converted to multiple-unit usage until the owner of such property has filed a true copy of the conversion plan with the Attorney General; with the office of the Recorder of Deeds of the county or counties in which the land is situated; and has mailed or delivered a copy to the tenant's association, if one is in existence within the manufactured home community at that time. The conversion plan shall contain:

(1) Information for the affected local government including, but not limited to, the following:

- a. A description of the boundaries of the real estate which is to be converted;
- b. The name and business address of each corporate and noncorporate developer and owner of the property;
- c. Where a developer or owner is a corporation, the name and address of each officer and member of the corporation's board of directors;
- d. A listing of all stages of the proposed conversion process, including the proposed finishing date for each stage;
- e. The developer's assessment of the impact of the proposed conversion on: The immediate surrounding area; local schools; traffic patterns and density; on-street parking; and on utilities and services furnished by the municipality or county;

f. The developer's assessment of the impact of the conversion on the number of available manufactured home rental spaces in the affected local community;

(2) Information needed by present lessees and others who must make a decision concerning whether or not to purchase units in the conversion project, including but not limited to:

a. A description of the rental structure and of each type of unit in the proposed conversion project, together with the specific initial fixed price for each unit, including any proposed fees or charges, and how such price was computed and in conjunction with the tenants' association right of first refusal described in paragraph (2) of subsection (a) of § 7105 of this title and subsection (a) of § 7108 of this title an explanation as to how the specific fixed price for the entire community was calculated explaining in detail the profit to be made by the owner;

b. Information in summary form relating to mortgage financing; estimated down payment for each unit; alternative financing and down payments; monthly payments of principal, interest and real estate taxes; and estimated federal income tax benefits and liabilities;

c. Site plans, including drawings of the property as it would appear after conversion into multiple-unit housing;

d. A copy of each organizational document, including all proposed covenants, conditions and restrictions;

e. The number and location of any proposed off-street parking spaces, enclosed storage spaces, and recreational areas;

f. The extent to which the developer will provide any capital contribution for the maintenance or improvement of common areas;

g. Statement by the owner that he has received a certificate attesting that the proposed conversion project meets all zoning codes of the county and municipality in which the project will be located, or the conversion project is a valid preexisting nonconforming use;

(3) Information relating to nonpurchasing tenants including, but not limited to, a proposed relocation assistance plan; and a list of comparable housing in the area, including available manufactured home and nonmanufactured home housing. The relocation plan shall include information relating to all agencies and organizations which provide alternative housing relocation assistance;

(4) A listing of all tenants of the manufactured home community at the time of the conversion plan, by name; and a listing of those tenants which have agreed to purchase units in the conversion project, together with the signatures of the purchasing tenants.

§ 7105. Notice requirements.

(a) Preliminary notice period. -- Any owner of real estate on which a manufactured home community is located who wishes to convert such property to multiple-unit usage shall provide a written preliminary notice to each tenant, and to the tenants' association, if one is in existence, of the owner's intention to convert the property. The preliminary notice shall not constitute, nor shall it include, a notice to the tenant to terminate his tenancy. Such preliminary notice shall also notify each tenant of the following:

(1) That there is a mandatory 3-year grace period prior to eviction;

(2) That the tenants' association has the exclusive option to purchase that portion of the community which the owner proposes to convert, and must, within 90 days from the date it receives the preliminary notice, and the separate writing described in subsection (a) of § 7108 of this title, notify the owner of its intent to exercise its option;

(3) That if the tenants' association decides not to exercise its option, upon the expiration of the 90-day period, the option shall convert into a right of first refusal meaning that the property shall not be sold to any other purchaser, at any time, at any price or terms without first having been offered on the same terms to the tenants' association;

(4) That no tenant shall be evicted prior to the expiration of the 3-year grace period, except for the following causes:

- a. Nonpayment of rent; or
- b. Violation of a material provision of the lease.

(b) Grace period. -- After the expiration of 90 days from the date of the preliminary notice or filing of the conversion plan with the Recorder of Deeds, whichever is later, the owner may give final notice to each tenant that the tenant must vacate the premises at the end of the 3-year period, unless the tenant comes within any of the exceptions set forth in this section and § 7111 of this title. From the time of the delivery of the final notice, each tenant shall have a 3-year grace period before the owner may institute legal action for eviction. In any instance where a tenant's lease is for a period of time which extends beyond the expiration date as set forth in the final notice, the grace period shall continue until expiration of such tenant's lease.

(c) Final notice. -- The final notice shall contain a provision stating that each tenant in occupancy at the time of the preliminary notice shall have the exclusive right to purchase a unit in the proposed conversion project, and that such exclusive right to purchase shall continue through the first 90 days after the waiver or termination by the tenants' association of its option, and for such additional time thereafter as the owner shall permit. A copy of the final notice shall also be mailed or delivered to the tenants' association, if such association was in being at the time of the preliminary notice. The final notice shall contain a provision that any person who is a tenant of the manufactured home community, and who elects to purchase a unit in the conversion project, shall not be required to pay more for any unit than the price set forth in the conversion plan, nor more than any other person purchasing the same type of unit. The final notice shall not constitute, nor shall it include, a notice to the tenant to immediately terminate his tenancy.

§ 7106. Approval by Attorney General.

No conversion of real property on which a manufactured home community is situated shall be lawful unless such conversion has received the approval of the Attorney General after a thorough review the conversion plan to determine compliance with this chapter. Where the Attorney General has not acted to approve, conditionally approve or disapprove a conversion plan or prospective conversion within 90 days after receipt of the conversion plan, the conversion plan or prospective conversion shall be deemed to have been approved; provided, however, that the provisions of § 7103 of this title are mandatory, and cannot be waived. The Attorney General may, by a writing addressed to the owner, suspend his decision for an additional 30 days. When the conversion plan is approved, no provision of the plan shall be changed without the written approval of the Attorney General.

§ 7107. Extension and termination of leases.

(a) Any tenant at the time of the preliminary notice grace period shall be entitled to have his lease extended, on the same terms and conditions as the immediately preceding lease, until the expiration of the grace period. Nothing in this subsection shall prevent the owner from increasing rent pursuant to subsection (d) of § 7110 of this title.

(b) After receipt of the final notice, and upon 30 days' written notice to the owner, a tenant may without penalty terminate his existing lease; provided, however, that the owner shall receive a full month's rent for any partial month of tenancy.

§ 7108. Option to purchase; right of first refusal; rescission of contract to purchase; nonpurchasing tenant with children attending school.

(a) Where there is a tenants' association in existence at the time of the preliminary notice, the owners of the real property which is to be converted shall in a separate writing mailed to the association, upon approval of the plan by the Office of the Attorney General, grant to the association the exclusive option to purchase the community for a period of 90 days at the price set forth in the plan. If the tenants' association should exercise its option, it shall have 120 days from the date of its exercise of its option to complete the purchase. If the tenants' association decides not to exercise its options, upon the expiration of the 90-day period, the option shall convert into a right of first refusal meaning that the property shall not be sold to any other purchaser, at any time, at any price or terms, without first having been offered on the same terms to the tenants' association.

(b) Should the tenants' association fail to exercise its option to purchase within the 90-day period, the owner shall grant to the tenant the exclusive option to purchase the unit for a period of 90 days thereafter at the price set forth in the plan. Upon the request of a tenant, the owner shall provide the tenant with a listing of the types of units within the conversion project, and the price for each type of unit. If the tenant should exercise his option, he shall have 120 days from the date of the exercise of his option to complete the purchase. If the tenant decides not to exercise his option, upon the expiration of the 90-day period, the option shall convert into a right of first refusal, meaning that the property shall not be sold to any other purchaser at any time, at any price or terms without first having been offered on the same terms to the tenant.

(c) For a period of 60 days after a purchasing tenant has agreed in writing to purchase a unit within the conversion project, such tenant shall have the right to rescind such contract without the imposition of any penalty or fee. If the tenant rescinds, any renegotiation or new agreement signed by the owner and the purchasing tenant shall be valid and binding, if such renegotiation occurs between the time of rescission and the expiration of the 60-day period set forth in this subsection.

(d) Where the 3-year grace period has expired and a nonpurchasing tenant with children still attending school has failed to move, such tenant shall be permitted to remain until 1 week following the end of the school year; or if any of the children is about to graduate, 1 week after the graduation ceremony; whichever is later.

§ 7109. Rights of nonpurchasing tenants.

(a) All manufactured home sites occupied by nonpurchasing tenants shall be managed by the same manager or agent who manages all other units in the manufactured home community. The owner shall provide to nonpurchasing tenants all services and facilities required by law on a nondiscriminatory basis. The owner shall guarantee such obligation of the manager or agent to provide all such services and facilities for each tenant until such time as the tenant no longer resides on the premises. This obligation will be the obligation of the tenants' association if it exercises its right of first refusal and purchases the community.

(b) Where an owner has given notice of his intent to convert a manufactured home community, each tenant who has not purchased a unit in the proposed conversion project shall,

during the remaining term of the rental agreement and any extension thereof, be entitled to the same rights, privileges and services that were enjoyed by tenants prior to the date of the preliminary notice together with those that are granted, offered or provided to purchasers or prospective purchasers of the conversion project.

§ 7110. Rights of tenant during conversion.

(a) After the filing of a conversion plan, during the grace period, no owner may evict or fail to renew the lease of a tenant of a manufactured home community which is the site of a proposed conversion; provided, however, that eviction proceedings may be commenced for nonpayment of rent or a similar breach by a tenant of a contractual obligation to the owner.

(b) The prices, terms and conditions offered to tenants by the owner for the purchase of a unit within the conversion project shall be the same as, or more favorable than, those set forth in the conversion plan and those offered to the general public.

(c) Any tenant who has left the manufactured home community or is about to do so because the owner or his agents are substantially interfering with his comfort, peace or quiet contrary to the terms of this chapter may apply to the Attorney General for assistance. The Attorney General may act on such tenant's behalf to secure restraining actions to abate the disturbance and/or to prohibit the owner from engaging in any course of conduct (including, but not limited to, interruption or discontinuance of essential services) which would substantially interfere with such person's tenancy.

(d) Where the lease of a tenant expires after the conversion plan has been filed, and such tenant continues to rent a site within the manufactured home community, the owner shall not increase the rent on an annual basis more than the average or the prior year's annual increase in rent of the 3 geographically nearest manufactured home communities in the county in which the community is located. The average increase in rent will be determined as of the date on which the lease expires. There shall be no more than 1 rent increase imposed upon the tenant during any 1 calendar year.

§ 7111. Handicapped and elderly tenants.

In addition to the protection provided to tenants under this chapter, the following provisions shall apply on behalf of any tenant who is handicapped or who is 65 years of age or older:

(1) The owner shall supply a list of at least 3 comparable rental units, including manufactured home communities, which have vacancies and which can accommodate such person if such exists, subject, however, to the terms of subsection (c) of § 7112 of this title;

(2) The owner shall supply the address and telephone number of the nearest municipal, state or federal agency which can provide information and assistance to such tenant under the National Housing Act 42 U.S.C. § 1701 et seq. and the Uniform Relocation Assistance Act;

(3) Where the tenant remains on the premises at the expiration of the 3-year period, and has in good faith attempted to obtain adequate housing, such tenant shall be permitted to stay on the premises until permanent housing is obtained. Any increase in rent shall be in conformity with the terms of subsection (d) of § 7110 of this title.

§ 7112. Eviction; access to comparable housing.

(a) Where, at the conclusion of the grace period, a tenant is evicted by order of court solely as a result of the conversion, the owner shall pay for all expenses incurred by such tenant

in moving into his new residence. If the new residence is in a manufactured home community, such expenses shall include all "setting up" expenses, including connections to all utilities.

(b) Within 18 full months after receiving final notice any tenant may request that the owner provide a list of available comparable housing or comparable manufactured home sites and a reasonable opportunity to examine and rent such comparable housing or manufactured home site.

(c) After the expiration of the 3-year period, the owner may institute an action in the Superior Court for the eviction of any tenant or tenants who still have manufactured homes within the community or who otherwise have continued to reside within the community; or a tenant, group of tenants or tenant association may apply to the Superior Court for a stay of any eviction proceedings. The Court may, in its discretion, authorize 1-year stays of eviction subject to such rent increases as authorized by subsection (d) of § 7110 of this title until such time as the Court is satisfied that the tenant has been provided a list of comparable housing or comparable manufactured home sites and is satisfied that the tenant has been provided a reasonable opportunity to examine and rent such housing or manufactured home site. Except where the owner has failed to provide such a list of comparable housing or manufactured home sites, or has failed to provide a reasonable opportunity to examine and rent such housing or manufactured home site, the Court shall grant not more than 5 such eviction stays.

§ 7113. Penalties; jurisdiction.

(a) Civil penalties. --

(1) Where an owner violates a provision of § 7105 of this title any action taken by the owner to convert the real property on which a manufactured home community is located into multiple-unit usage shall be invalid; provided, however, that the owner, by again giving the preliminary notice required under § 7105 of this title, may again begin the conversion process.

(2) Where the owner fails to give the tenants' association its option to purchase under § 7108 of this title, no subsequent sale or purchase of the real property or of any unit within the conversion project shall be valid. Where the owner fails to provide a tenant with an opportunity to purchase under § 7108 of this title, the tenant shall nevertheless be offered a unit in preference to any nontenant who has agreed to purchase a unit during or subsequent to the time of the tenant's right to purchase.

(3) Any binding agreement entered into by an owner which results in a violation of any provision of this chapter is:

- a. Void, if a person residing in the manufactured home community at the time of the preliminary notice was an object of, or was adversely affected by, such violation; or
- b. Voidable at the option of any party thereto.

(b) Criminal penalties; jurisdiction. --

(1) Any person who is convicted of a violation of a provision of this chapter shall be fined a sum not less than \$100 nor more than \$500 for each offense. Where the violation is ongoing and continuous, each day's continuation of such violation shall constitute a separate offense.

(2) The Superior Court shall have jurisdiction over all offenses under this section.

§ 7114. Modification or waiver of chapter.

(a) Except as otherwise provided in this section, any provision in a lease or other agreement which waives or modifies any provision of this chapter shall be void and unenforceable as against public policy. An owner and tenant may, however, agree to a modification or waiver of some or all of the protections afforded to the tenant pursuant to this chapter; provided, however:

(1) The modification or waiver is encompassed in a written contract which is separate from the lease;

(2) The modification or waiver is voluntarily entered into without duress;

(3) The modification or waiver is entered into with full understanding of this chapter, the terms of any contract to which the modification or waiver applies, and the modification or waiver itself;

(4) The modification or waiver is for adequate consideration.

(b) In any action involving a modification or waiver, the owner shall have the burden of proof to establish that the requirements of this chapter and of this section have been met.

CHAPTER 57 OF TITLE 25, DELAWARE CODE - SUMMARY POSSESSION
(Revised 7/96)

Sec.

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- 5702. Grounds for summary proceeding.**
- 5703. Who may maintain proceeding.**
- 5704. Commencement of action and notice of complaint.**
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§ 5701. Jurisdiction and venue.

An action for summary possession in accordance with § 5702 of this title shall be maintained in the Justice of the Peace Court which handles civil cases and which is closest to the premises or commercial rental unit and in the same county. For purposes of this chapter, the term "rental agreement" shall include a lease for a commercial rental unit.

§ 5702. Grounds for summary proceeding.

Unless otherwise agreed in a written rental agreement, an action for summary possession may be maintained under this chapter because:

- (1) The tenant unlawfully continues in possession of any part of the premises after the expiration of the rental agreement without the permission of the landlord or, where a new tenant is entitled to possession, without the permission of the new tenant;
- (2) The tenant has wrongfully failed to pay the agreed rent;
- (3) The tenant has wrongfully deducted money from the agreed rent;
- (4) The tenant has breached a lawful obligation relating to the tenant's use of the premises;
- (5) The tenant, employee, servant or agent of the landlord holds over for more than 15 days after dismissal when the housing is supplied by the landlord as part of the compensation for labor or services;
- (6) The tenant holds over for more than 5 days after the property has been duly sold upon the foreclosure of a mortgage and the title has been duly perfected;

- (7) The rightful tenant of the rental unit has been wrongfully ousted;
- (8) The tenant refuses to yield possession of the rental unit rendered partially or wholly unusable by fire or casualty, and the landlord requires possession for the purpose of effecting repairs of the damage;
- (9) The tenant is convicted of a class A misdemeanor or any felony during the term of tenancy which caused or threatened to cause irreparable harm to any person or property;
- (10) A rental agreement for a commercial rental unit provides grounds for an action for summary possession to be maintained; or
- (11) Or, if, and only if, it pertains to mobile home lots, for any of the grounds set forth in the Mobile Home Lots and Leases Act, as amended.

▪ **5703. Who may maintain proceeding.**

The proceeding may be initiated by:

- (1) The landlord;
- (2) The owner;
- (3) The tenant who has been wrongfully put out or kept out;
- (4) The next tenant of the premises, whose term has begun; or
- (5) The tenant.

▪ **5704. Commencement of action and notice of complaint.**

(a) The proceeding shall be commenced by filing a complaint for possession with the court.

(b) Upon commencement of an action, the court shall issue the process specified in the praecipe and shall cause service of the complaint on the defendant, together with a notice stating the time and place of the hearing. The notice shall further state that if the defendant shall fail at such time to appear and defend against the complaint, defendant may be precluded from afterwards raising any defense or a claim based on such defense in any other proceeding or action.

(c) The party requesting the issuance of process may file a motion for the appointment of a special process server, consistent with Justice of the Peace Court Civil Rules. The party requesting the appointment of a special process server may prepare a form of order for signature by the clerk of court under the seal of the court. Blank forms for a motion for the appointment of a special process server and for an order appointing such a special process server shall be provided by the clerk of the court on request of the party.

▪ **5705. Service and filing of notice.**

(a) The notice of hearing and the complaint shall be served at least 5 days and not more than 30 days before the time at which the complaint is to be heard.

(b) The notice and complaint, together with proof of service thereof, shall be filed with the court before which the complaint is to be heard prior to the hearing, and in no

event later than 5 days after service. If service has been made by certified or registered mail, the return receipt, signed, refused or unclaimed, shall be proof of service.

(c) Service of the notice and complaint may be made in any manner consistent with either ' 5704 or ' 5706 of this title.

' 5706. Manner of service.

(a) Service of the notice of hearing and complaint shall be made in the same manner as personal service of a summons in an action.

(b) If service cannot be made in such manner, it shall be made by leaving a copy of the notice and complaint personally with a person of suitable age and discretion who resides or is employed in the rental unit.

(c) If no such person can be found after a reasonable effort, service may be made:

(1) Upon a natural person by affixing a copy of the notice and complaint upon a conspicuous part of the rental unit within 1 day thereafter, and by sending by either certified mail or 1st class mail with certificate of mailing, using United States Postal Service Form 3817 or its successor, an additional copy of each document to the rental unit and to any other address known to the person seeking possession as reasonably chosen to give actual notice to the defendant; or

(2) If defendant is an artificial entity, pursuant to Supreme Court Rule 57, by sending by certified mail or by sending by 1st class mail with certificate of mailing, using United States Postal Service Form 3817 or its successor, within 1 day after affixation, additional copies of each document to the rental unit and to the principal place of business of such defendant, if known, or to any other place known to the party seeking possession as reasonably chosen to effect actual notice.

(d) Service pursuant to this section shall be considered actual or statutory notice.

' 5707. Contents of complaint generally.

The complaint shall:

(1) State the interest of the plaintiff in the rental unit from which removal is sought;

(2) State the defendant's interest in the rental unit and defendant's relationship to the petitioner with regard thereto;

(3) Describe the rental unit from which removal is sought;

(4) State the facts upon which the proceeding is based and attach a copy of any written notice of the basis of the claim as an exhibit to the complaint; and

(5) State the relief sought which may include a judgment for rent due if the notice of complaint contains a conspicuous notice that such demand has been made.

▪ **5708. Additional contents of certain complaints.**

If possession of the rental unit is sought on the grounds that the tenant has violated or failed to observe a lawful obligation in relation to tenant's use and enjoyment of the rental unit, the complaint shall, in addition to the requirements of the foregoing section:

(1) Set forth the rule or provision of the rental agreement allegedly breached, together with the date the rule was made known to the tenant and a copy of the rule or provision as initially provided to the tenant and the manner in which such rule or provision was made known to the tenant;

(2) Allege with specificity the facts constituting a breach of the rule or provision of the rental agreement and that notice or warning as required by law was given to the tenant;

(3) Set forth the facts constituting a continued or recurrent violation of the rule or provision of the rental agreement;

(4) Set forth the purpose served by the rule or provision of the rental agreement allegedly breached; and

(5) Allege that where the rule is not a part of the rental agreement or any other agreement of the landlord and tenant at the time of the formation of the rental agreement, that it does not work a substantial modification of the tenant's bargain or, if it does, that the tenant consented knowingly in writing to the rule.

▪ **5709. Answer.**

At the time when the petition is to be heard, the defendant or any person in possession or claiming possession of the rental unit may answer orally or in writing. If the answer is oral, the substance thereof shall be endorsed on the complaint. The answer may contain any legal or equitable defense or counter-claim, not to exceed the jurisdiction of the court.

▪ **5710. Trial.**

Where triable issues of fact are raised, they shall be tried by the court. At the time when an issue is joined, the court, at the application of either party and upon proof to its satisfaction by affidavit or orally that an adjournment is necessary to enable the applicant to procure necessary witnesses or evidence or by consent of all the parties who appear, may adjourn the trial, but not more than 10 days, except by consent of all parties.

▪ **5711. Judgment.**

(a) The court shall enter a final judgment determining the rights of the parties. The judgment shall award to the successful party the costs of the proceeding.

(b) The judgment shall not bar an action, proceeding or counterclaim commenced or interposed within 60 days of entry of judgment for affirmative equitable relief which was not sought by counterclaim in the proceeding because of the limited jurisdiction of the court.

(c) If the proceeding is founded upon an allegation of forcible entry or forcible holding out, the court may award to the successful party a fixed sum as damages, in addition to the costs.

▪ **5712. Default judgment.**

(a) No judgment for the plaintiff shall be entered unless the court is satisfied, upon competent proof, that the defendant has received actual notice of the proceeding or, having abandoned the rental unit, cannot be found within the jurisdiction of the court after the exercise of reasonable diligence. Posting and 1st-class mail, as evidenced by a certificate of mailing, is acceptable as actual notice for the purposes of a default judgment.

(b) A party may, within 10 days of the entry of a default judgment or a nonsuit, file a motion with the court to vacate the judgment and if, after a hearing on the motion, the court finds that the party has satisfied the requirements of Justices of the Peace Civil Rule 20(b), it shall grant the motion and permit the parties to elect a trial before a single judge or a jury trial.

▪ **5713. Jury trials.**

(a) In any civil action commenced pursuant to this chapter, the plaintiff may demand a trial by jury at the time the action is commenced and the defendant may demand a trial by jury within 10 days after being served. Upon receiving a timely demand, the justice shall appoint 6 impartial persons of the county in which the action was commenced to try the cause. In making such appointments, the justice shall appoint such persons from the jury list being used at time of appointment by the Superior Court in the county where the action was commenced.

(b) The jury shall be sworn or affirmed that they will "faithfully and impartially try the cause pending between the said plaintiff and defendant and make a true and just report thereupon according to the evidence" and shall hear the allegations of the parties and their proofs. If either party fails to appear before the jury, they may proceed in that party's absence. When the jury or any 4 of them agree, they shall make a report under their hands and return the same to the justice who shall give judgment according to the report.

(c) If any juror appointed fails to appear or serve throughout the trial the justice may supply a replacement by appointing and qualifying another, but there shall be no trial by jury if the defendant has not appeared.

(d) In all other cases, the justice shall hear the case and give judgment according to the right of the matter and the law of the land.

(e) A Chief Magistrate shall have the authority to designate courts in each county which can accommodate a jury trial.

▪ **5714. Compelling attendance of jurors.**

(a) In a proceeding under this chapter, the justice may require the attendance of the jurors the justice appoints, and may issue a summons under hand and seal to a constable for summoning them to appear before the court.

(b) If any juror duly summoned fails to appear as required, or to be qualified and serve throughout the trial, the juror shall, unless the juror shows to the justice a sufficient excuse, be guilty of contempt and shall be fined \$50 which shall be levied with costs by distress and sale of the juror's goods and chattels by virtue of a warrant by the justice.

(c) The warrant shall be directed to a constable in the following manner: County, ss. The State of Delaware.

To any constable, greeting:

Whereas, of has been adjudged by, 1 of our justices of the peace, to be guilty of a contempt in making default after due summons as a juror in a case pending before said justice and has been ordered to pay a fine of \$50 in pursuance of the act of assembly in such case provided, and

Whereas, the said has neglected to pay the said sum, we therefore command you to levy the said sum of \$50 with costs and your costs hereon by distress and sale of the goods and chattels of the said upon due notice given as upon other execution process.

Witness the hand and seal of the said justice the day of 19 ...

▪ **5715. Execution of judgment; writ of possession.**

(a) Upon rendering a final judgment for plaintiff, but in no case prior to the expiration of the time for the filing of an appeal or motion to vacate or open the judgment, the court shall issue a writ of possession directed to the constable or the sheriff of the county in which the property is located, describing the property and commanding the officer to remove all persons and put the plaintiff into full possession.

(b) The officer to whom the writ of possession is directed and delivered shall give at least 24 hours' notice to the person or persons to be removed and shall execute it between the hours of sunrise and sunset.

MANUFACTURED HOME. If the writ of possession being posted relates to the possession of a rented lot for manufactured housing, under Chapter 70 of this title, and, on or before the date the writ of possession is posted, the tenant has prepaid a per diem storage fee in an amount equivalent to 7 days' rent, then the court, through its officers, may extend the notice period for the removal of the home from the lot, to a maximum period of 7 calendar days from the date of posting. In no event may the tenant inhabit the home after the 1st 24 hours of the notice period. If the per diem charge above described has been prepaid and the time for removal has been extended, then 7 calendar days after the posting of the writ, the manufactured home may be removed by the landlord. If the period for removal of the home has not been extended by a prepayment of the per diem amount for storage, then 24 hours after the posting of the writ, the home may be removed from the lot by the landlord. In either event, after removal, the home must be stored at the tenant's expense for a period of 30 days before it can be disposed of through further legal

action. The tenant may not remove the home from the storage location until the landlord has been reimbursed for any judgment amount and the reasonable cost of removal and storage of the manufactured home.

(c) The plaintiff has the obligation to notify the constable to take the steps necessary to put the plaintiff in full possession.

(d) The issuance of a writ of possession for the removal of a tenant cancels the agreement under which the person removed held the premises and annuls the relationship of landlord and tenant. Plaintiff may recover, by an action for summary possession, any sum of money which was payable at the time when the action for summary possession was commenced and the reasonable value of the use and occupation to the time when a writ of possession was issued and for any period of time with respect to which the agreement does not make any provision for payment of rent, including the time between the issuance of the writ and the landlord's actual recovery of the premises.

(e) If, at the time of the execution of the writ of possession, the tenant fails to remove tenant's property, the landlord shall have the right to and may immediately remove and store such property for a period of 7 days, at tenant's expense, unless the property is a manufactured home and the rental agreement is subject to Chapter 70 of this title, in which case the manufactured home must be stored for a period of 30 days. If, at the end of such period, the tenant has failed to claim said property and to reimburse the landlord for the expense of removal and storage in a reasonable amount, such property and possessions shall be deemed abandoned and may be disposed of by the landlord without further notice or obligation to the tenant. Nothing in this subsection shall be construed to prevent the landlord from suing for both rent and possession at the same hearing.

(1) If there is no appeal from the judgment of summary possession at the time of the execution of the writ of possession and the tenant has failed to remove tenant's property, then the landlord may immediately remove and store such property for a period of 7 days, at tenant's expense, unless the property is a manufactured home and the rental agreement is subject to Chapter 70 of this title, in which case the manufactured home must be stored for a period of 30 days.

(2) If, at the end of such period, the tenant has failed to claim said property and to reimburse the landlord for the expense of removal and storage in a reasonable amount, such property and possessions shall be deemed abandoned and may be disposed of by the landlord without further notice or obligation to the tenant.

(3) All writs of possession where no appeal has been filed must contain the following language:

NOTICE WHERE NO APPEAL FILED

If you do not remove your property from the premises within 24 hours, then the landlord may immediately remove and store your property for a period of 7 days at your expense, unless the property is a manufactured home and the rental agreement is subject to Chapter 70 of this title, in which case the manufactured home must be stored for a period of 30 days. If you fail to claim your property and reimburse the landlord prior to the expiration of the 7-day period, then the landlord may dispose of your property without any further legal action.

MANUFACTURED HOME. If the writ of possession being posted relates to the possession of a rented lot for manufactured housing, under Chapter 70 of this title, and, on or before the date the writ of possession is posted, the tenant has prepaid a per diem storage fee in an amount equivalent to 7 days' rent, then the court, through its officers, may extend the notice period for the removal of the home from the lot to a maximum period of 7 calendar days from the date of posting. In no event may the tenant inhabit the home after the first 24 hours of the notice period. If the per diem charge above described has been prepaid and the time for removal has been extended, then 7 calendar days after the posting of the writ, the manufactured home may be removed by the landlord. If the period for removal of the home has not been extended by a prepayment of the per diem amount for storage, then 24 hours after the posting of the writ, the home may be removed from the lot by the landlord. In either event, after removal, the home must be stored at the tenant's expense for a period of 30 days before it can be disposed of through further legal action. The tenant may not remove the home from storage location until the landlord has been reimbursed for any judgment amount and the reasonable cost of removal and storage of the manufactured home.

(f) If, at the time of the execution of the writ of possession, an appeal of the judgment of possession has been filed:

(1) If there has been an appeal filed from a judgment of summary possession at the time of the execution of the writ of possession and the tenant has failed to remove property within 24 hours, then the landlord may immediately remove and store such property, at the tenant's expense, for a period of 7 days after the resolution of the appeal, unless the property is a manufactured home and the rental agreement is subject to Chapter 70 of this title, in which case the manufactured home must be stored for a period of 30 days.

(2) If, at the end of such period, the tenant has failed to claim said property and to reimburse the landlord for the expense of removal and storage in a reasonable amount, such property and possessions shall be deemed abandoned and may be disposed of by the landlord without further notice or obligation to the tenant.

(3) All writs of possession, where an appeal has been filed, must contain the following language:

NOTICE WHERE APPEAL HAS BEEN FILED

If you do not remove your property from the premises within 24 hours, then the landlord may immediately remove and store your property until 7 days after your appeal has been decided, at your expense. If you fail to claim your property and reimburse the landlord prior to the expiration of the 7-day period, then the landlord may dispose of your property without any further legal action.

MANUFACTURED HOME. If the writ of possession being posted relates to the possession of a rented lot for manufactured housing, under Chapter 70 of this title, and, on or before the date the writ of possession is posted, the tenant has prepaid a per diem storage fee in an amount equivalent to 7 days' rent, then the court, through its officers, may extend the notice period for the removal of the home from the lot to a maximum period of 7 calendar days from the date of posting. In no event may the tenant inhabit the home after the 1st 24 hours of the notice period. If the per diem charge above described

has been prepaid and the time for removal has been extended, then 7 calendar days after the posting of the writ, the manufactured home may be removed by the landlord. If the period for removal of the home has not been extended by a prepayment of the per diem amount for storage, then 24 hours after the posting of the writ, the home may be removed from the lot by the landlord. In either event, after removal, the home must be stored at the tenant's expense for a period of 30 days before it can be disposed of through further legal action. The tenant may not remove the home from storage location until the landlord has been reimbursed for any judgment amount and the reasonable cost of removal and storage of the manufactured home.

(g) Nothing in subsection (d) of this section shall prevent the landlord from making a claim for rent due from the tenant under the provisions of the lease. The landlord shall have the duty of exercising diligence in landlord's efforts to re-rent the premises. The landlord shall have the burden of showing the exercise of such diligence. The landlord shall have the right to sue for both rent and possession at the same hearing.

(h) Whenever the plaintiff is put into full possession under this chapter it shall be the duty of the plaintiff, at the time actual repossession occurs, to have the locks to the premises changed if said premises are to be further leased out. Any plaintiff who fails to comply with this subsection shall be liable to any new tenant whose person or property is injured as a result of entry to the premises gained by the dispossessed tenant by use of a key still in their possession which fit the lock to the premises at the time of this tenancy.

▪ **5716. Stay of proceedings by tenant; good faith dispute.**

When a final judgment is rendered in favor of the plaintiff in a proceeding brought against a tenant for failure to pay rent and the default arose out of a good faith dispute, the tenant may stay all proceedings on such judgment by paying all rent due at the date of the judgment and the costs of the proceeding or by filing with the court an undertaking to the plaintiff, with such assurances as the court shall require, to the effect that defendant will pay such rent and costs within 10 days of the final judgment being rendered for the plaintiff. At the expiration of said period, the court shall issue a warrant of possession unless satisfactory proof of payment is produced by the tenant.

▪ **5717. Stay of proceedings on appeal.**

(a) Nonjury trials. With regard to nonjury trials, a party aggrieved by the judgment rendered in such proceeding may request in writing, within 5 days after judgment, a trial de novo before a special court comprised of 3 justices of the peace other than the justice of the peace who presided at the trial, as appointed by the chief magistrate or a designee, which shall render final judgment, by majority vote, on the original complaint within 15 days after such request for a trial de novo. No such request shall stay proceedings on such judgment unless the aggrieved party, at the time of making such request, shall execute and file with the Court an undertaking to the successful party, with such bond or other assurances as may be required by the Court, to the effect that the aggrieved party will pay all costs of such proceedings which may be awarded against that party and abide the order of the Court therein and pay all damages, including rent, justly

accruing during the pendency of such proceedings. All further proceedings in execution of the judgment shall thereupon be stayed.

(b) An appeal taken pursuant to subsection (a) of this section may also include claims and counter-claims not raised in the initial proceeding; provided, that within 5 days of the filing of the appeal, the claimant also files a bill of particulars identifying any new issues which claimant intends to raise at the hearing which were not raised in the initial proceeding.

(c) Jury trials. With regard to jury trials, a party aggrieved by the judgment rendered in such proceeding may request, in writing, within 5 days after judgment, a review by an appellate court comprised of 3 justices of the peace other than the justice of the peace who presided at the jury trial, as appointed by the chief magistrate or a designee. This review shall be on the record and the party seeking the review must designate with particularity the points of law which the party appealing feels were erroneously applied at the trial court level. The decision on the record shall be by majority vote. No such request shall stay proceedings on such judgment unless the aggrieved party, at the time of making such request, shall execute and file with the Court an undertaking to the successful party, with such bond or other assurances as may be required by the Court, to the effect that the aggrieved party will pay all costs of such proceedings which may be awarded against that party and abide the order of the Court therein and pay all damages, including rent, justly accruing during the pendency of such proceedings. All further proceedings in execution of the judgment shall thereupon be stayed.

(d) The Court shall not issue the writ of possession during the 5-day appeal period. After the 5-day appeal period has ended, the Court may issue the writ of possession at the plaintiff's request if the defendant has filed an appeal, but not filed a bond or other assurance or an in forma pauperis request to stay the issuance of the writ of possession. If the plaintiff executes on the writ of possession prior to a determination of the appeal and the appealing party is ultimately successful, then the plaintiff shall be responsible for reasonable cover damages (including, but not limited to, the cost of substitute housing or relocation) for the period of the dispossession as a result of the execution of the writ of possession, plus court costs and fees.

(e) An aggrieved party may appeal in forma pauperis if the Court grants an application for such status. In that event, the Court may waive the filing fee and bond for a trial de novo, a trial on the record or a request to stay the writ of possession.

(f) An appeal taken pursuant to this section may include any issue on which judgment was rendered at the trial court level, including the issue of back rent due, any other statute to the contrary notwithstanding.

▪ **5718. Proceedings in forma pauperis.**

Upon application of a party claiming to be indigent, the Court may authorize the commencement, prosecution or defense of any civil action or civil appeal without prepayment of fees and costs or security therefor by a person who makes an affidavit that such person is unable to pay the costs or give security therefore. Such affidavit shall state the nature of the action or defense and the affiant's belief that the affiant is entitled to redress, and shall state sufficient facts from which the Court may make an objective determination of the petition's alleged indigence.

The Court may, in its discretion, conduct a hearing on the question of indigence. In any action in which a claim for damages is asserted by a party seeking the benefit of this rule, the Prothonotary shall, before entering a dismissal of the claim or satisfaction of any judgment entered therein, require payment of accrued court costs from any party for whose benefit this rule has been applied if said party has recovered a judgment in said proceedings or received any funds in settlement thereof. A party and such party's attorney of record shall file appropriate affidavits in the event a claim is sought to be dismissed without settlement or recovery.